

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "C" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 136/Ahd/2024
Assessment Year 2022-23**

Deloitte Haskins & Sells Chartered Accountants LLP 19 th Floor, Shapath-V, Opp. Karnavati Club, S.G. Highway, Ahmedabad, Gujarat-380015 PAN: AADFD2337G (Appellant)	Vs	The DCIT, Circle-4(1)(1), Ahmedabad (Respondent)
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**Assessee Represented: Shri Ketan Ved, (Party in Person)
Revenue Represented: Shri Prateek Sharma, Sr.D.R.**

Date of hearing : 23-04-2024
Date of pronouncement : 29-05-2024

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee as against the appellate order dated 30.11.2023 passed by the Additional Commissioner of Income Tax (Appeals), Mumbai arising out of the Intimation passed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2022-23.

2. The brief facts of the case is that the assessee is engaged in the profession of practicing Chartered Accountants. Earlier it was partnership firm which was converted into LLP. The assessee maintains cash basis of accounting and accordingly professional fees are offered for taxation in the year of receipt. While filing the Return of Income in India, credit limit is claimed for taxes paid overseas in accordance with the provisions of section 90 of the Act. For the Asst. Year 2022-23, the assessee filed its Return of Income on 03.11.2022 declaring total income of Rs. 37,26,75,340/-. In the Return of Income, the assessee claimed TDS of Rs. 5,24,42,170/- as well as Foreign Tax Credit (FTC) of Rs. 5,65,413/- for which tax withholding certificates were received up to the date of filing of Return of Income.

2.1. The Return of Income was processed u/s. 141(1) of the Act, the CPC vide Intimation dated 16-11-2022 was issued under section 143(1) of the Act, assessing the total income as per the Returned income i.e. at Rs. 37,26,75,340/-. However, credit for TDS was granted short by Rs.54,93,250/-. Against the said Intimation, the assessee filed an appeal before the Commissioner of Income-tax (Appeals) ("the CIT(A)"). While the appeal was pending disposal before the CIT(A), the assessee had received further certificate(s) of FTC from a Client viz., Metal One Corporation, Japan totalling to Rs.1,89,452/-. As the income corresponding to such FTC had already been offered to tax in the Return of Income for the Asst. Year 2022-23, therefore the assessee claimed further FTC by filing an additional ground of appeal before the CIT(A). The said

Additional Grounds of Appeal was dismissed by the Ld. CIT(A), which has been challenged in the present appeal.

3. The Grounds of Appeal filed by the assessee are as follows:

The appellant being dissatisfied with the order dated 30-11-2023 passed by the Add/Joint Commissioner of Income Tax (Appeal) -5, Mumbai (JCIT(A)) prefers an appeal against the same on the following amongst other grounds, which are without prejudice to each other.

1. The learned JCIT(A) erred on facts and in law in dismissing the additional ground of appellant for claiming of Foreign Tax relief of Rs.1,89,452/- under section 90 of the Act.

2. The learned JCIT(A) erred in holding that claim of foreign tax credit was not claimed in return of Income filed and form 67 does not contain the details of foreign tax credit therefore, appellant is not entitled.

3. The learned JCIT(A) erred in not appreciating that at the time of filing of return of Income, the tax was not withheld but income was offered to tax. Tax was withheld later on, therefore the same has been claimed as corresponding income was offered to tax in the year under consideration.

4. Ld. A.R. Shri Ketan Ved (Partner of the assessee firm) appeared in person and along with the small Paper Book wherein the details of corresponding income of Rs. 18,58,959/- with respect to which the additional FTC of Rs.1,89,452/- has been claimed by the assessee has already been offered to tax in the year under consideration. The details of corresponding income, invoice amount and date, receipt date, taxes withheld in Japan are placed at page 1. Further, extract of fees receipt register/expenses register for the year under consideration in which said income has been included (which are highlighted) is attached at page 2 to 11 of the Paper

Book and requested to set aside the case to the file of A.O. for verification and allow the claim.

5. Per contra, the Ld. Sr. D.R. Shri Prateek Sharma appearing for the Revenue supported the order passed by the Lower Authorities and submitted that as per Rule 128 of I.T. Rules to claim the credit in Form 67 is to be filed on or before the due date of filing the Return of Income u/s. 139(1) of the Act. The Assessing Officer has duly given credit of FTC what was filed in original Form No. 67, what is additionally filed is not an admissible under the provisions of the Rules. Therefore the assessee appeal is liable to be dismissed.

6. We have given our thoughtful consideration and perused the materials available on record including the Paper Book filed by the assessee. It is seen from Page No. 1 of the Paper Book, the details of invoice raised by the assessee amount, date and receipt of the amount with dates fees receipt register/ expenses register are also enclosed, at page no. 2 of the Paper Book with properly highlighting the above receipts. Though the assessee filed Revised Form No. 67 only before the Ld. CIT(A) after the receipt of the FTC from its clients Metal One Corporation, Japan, the Assessing Officer did not have the benefit of verifying the FTC and the corresponding Income whether offered by the assessee. Therefore in the Interest of Justice, we deem it fit to set aside the matter back to the file of Jurisdictional Assessing Officer to verify the claim made by the assessee and allow the same in accordance with law. Needless to

say, the assessee should file all the required details before the Jurisdictional Assessing Officer for passing an appropriate order.

7. In the result, the appeal filed by the Assessee is allowed for statistical purpose.

Order pronounced in the open court on 29 -05-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy
Ahmedabad : Dated 29/05/2024

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद