

IN THE INCOME TAX APPELLATE TRIBUNAL “E” BENCH, MUMBAI

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND
SHRI OMKARESHWAR CHIDRA, AM**

ITA Nos.3188 to 3193/Mum2023
(Assessment Years: 2013-14 to 2018-19)

and

Stay Application Nos. 8 to 13/Mum/2024
(Arising out of ITA Nos.3188 to 3193/Mum2023
(Assessment Years: 2013-14 to 2018-19)

Tata Communication Ltd. Videsh Sanchar Bhavan, Mahatma Gandhi Road, For, Mumbai-400 001	Vs.	DCIT(OSD) (TDS) 2(3) Mumbai
PAN/GIR No. AAACV 2807 C		
(Assessee)	:	(Respondent)
Assessee by	:	Shri Shri. J.D. Mistri a/w Shri. Ketan Ved
Respondent by	:	Shri. Biswanath Das-CIT DR
Date of Hearing	:	02.05.2024
Date of Pronouncement	:	31.05.2024

ORDER

Per Bench:

The captioned appeals have been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Years ('A.Y.' for short) 2013-14 to 2018-19.

2. The assessee has also filed the Stay Applications in this matter seeking for stay of recovery of demand raised by the Revenue.

3. As these issues are identical, we hereby pass a consolidated order in all these appeals by taking up ITA No. 3188/Mum/2023 as the lead case for the sake of convenience.

ITA No. 3188/Mum/2023

4. The assessee has challenged this appeal on various grounds, which are on violation of principles of natural justice, notice in compliance with Circular No. 19 of 2019 dated 14.08.2019 on computer generated Document Identification Number (DIN for short), on the grounds of limitation and on the merits of the case where the Id. CIT(A) has upheld the order of the Id. Assessing Officer ('A.O.' for short) in holding the assessee to be an 'assessee in default' u/s. 201(1)/201(1A) of the Act for an impugned amount of TDS of Rs.241,73,48,081/- along with various other grounds.

5. The brief facts are that the assessee, resident in India, is a leading provider of telecommunication services, global digital infrastructure services, engaged in providing integrated, globally managed tech solutions. Based on the information received from Addl. CIT-1(3), Mumbai dated 24.09.2019 that the assessee has been non compliant of the TDS provisions due to which various discrepancies were found, the TDS Officer conducted TDS verification at the premises of the assessee on 27.09.2019 where the statements of assessee company's associate on oath u/s. 131 of the Act were recorded. The assessee was served with notice u/s. 201(1) dated 01.10.2019 which the assessee contends that it did not contain the DIN number and a subsequent notice dated

11.10.2019 was issued u/s. 201(1) of the Act seeking for details to be furnished before 22.10.2019.

6. The learned Authorised Representative ('ld. AR' for short) for the assessee had appeared and had sought for time from the TDS Officer for the reason that the data required is voluminous in nature which requires a considerable amount of time and effort for the purpose of producing the same. Another notice dated 28.10.2019 was issued seeking for various other details of the year end provisions for which the ld. AR for the assessee requested for further time for producing the details pertaining to the disallowance made u/s. 40(a)(i)/(ia) of the Act being voluminous as the same consists of around 54,000 line items only for A.Y. 2013-14 and more than one lacs line items for the subsequent years which would require further time for the reason that it is voluminous and the employees of the assessee were engaged in tax audit quarter end closing, for board meeting, IT return filing, etc. The assessee had on other occasions also sought for further time for collating the said datas. The ld. TDS Officer passed an order raising demand of Rs.50.71 crores on account of default in deduction of tax at source.

7. Aggrieved, the assessee is in appeal before the first appellate authority.

8. The ld. CIT(A) upheld the order of the ld. Assessing Officer ('A.O.' for short) on the ground that the assessee has failed to deduct TDS on expenses claimed in the books of accounts.

9. Further aggrieved the assessee is in appeal before us.

10. We have heard the rival submissions and perused the materials available on record. The learned Authorised Representative ('ld. AR' for short) for the assessee contended that the assessee was not given sufficient opportunity to produce the relevant documents that are required to prove that the assessee is not the 'assessee in default'. The ld. AR further stated that as several years are involved in this and since various payments to various parties have been made, the data is very voluminous and has to be compiled meticulously for the purpose of examining the payments made. The ld. AR reiterated that there was violation of principles of natural justice where the assessee was not given sufficient opportunity to establish its case. The ld. AR also further contended that the legal grounds on DIN and limitation were also not considered by the lower authorities. Further to this, it was contended that some payments were categorized for non deduction of TDS and in some cases where the recipient had already paid the tax and various other details requires a thorough verification, which was not carried out by the lower authorities.

11. The learned Departmental Representative ('ld.DR' for short), on the other hand, controverted the said facts and stated that the assessee has failed to produce the complete details before the lower authorities inspite of several opportunities but nevertheless agreed that the issue in dispute requires complete verification.

12. On perusal of both the sides, it is observed that the primary issue involved in this appeal is whether the assessee is an 'assessee in default' as per the provision of section 201(1)/(1A) of the Act. It is to be observed that as per the contention of the ld. AR for the

assessee, the recipients of the payments is said to have paid taxes in most of the cases which details are not furnished neither before the ld. TDS officer nor before the ld. CIT(A). We are, therefore, of the opinion that in the interest of justice, all the issues raised by the assessee ought to be set aside to the file of the ld. A.O. for considering the details proposed to be filed by the assessee. The ld. A.O. is directed to give a sufficient opportunity to the assessee for producing the same and to decide these issues on the merits of the case. The assessee is also directed to appear before the ld. A.O. and produce all the documentary evidences in support of its claim without any undue delay.

13. In the result, the appeal filed by the assessee in ITA No.3188/Mum/2023 is allowed for statistical purpose.

ITA Nos.3189 to 3193/Mum/2023

14. As the facts in all the other appeals are identical, the observation of ITA No. 3188/Mum/2023 applies *mutatis mutandis* to these appeals also and, hence, all these appeals are allowed for statistical purposes.

Stay Application Nos. 8 to 13/Mum/2024

15. As we have disposed of all the above mentioned appeals setting it aside to the ld. A.O., the corresponding stay applications raised by the assessee are hereby dismissed as infructuous.

16. In the result, all the appeals filed by the assessee are allowed for statistical purpose and the stay applications raised by the assessee are hereby dismissed as infructuous.

Order pronounced in the open court on 31.05.2024.

Sd/-

(Omkareshwar Chidara)
Accountant Member

Mumbai; Dated : 31.5.2024

Roshani, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai