

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, MUMBAI**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER &  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER,**

**ITA Nos.3566 & 3567, 4409 & 4410/Mum/2023  
(A.Ys. 2016-17 to 2019-20)**

DCIT, Circle-14(1)(1) Room No.432, 4 <sup>th</sup> Floor, Aayakar Bhavan, M.K. Road, Mumbai – 400 020	Vs.	M/s L & T Infrastructure Finance Company Ltd. Plot No. 177, Brindavan, C.S.T. Road, Kalina, Santacruz (West) Mumbai – 400098
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AABCL2283L		
Appellant	..	Respondent

Appellant by :	Alpesh Dharod
Respondent by :	Raj Singh Meel

Date of Hearing	11.06.2024
Date of Pronouncement	05.07.2024

आदेश / O R D E R

**Per Amarjit Singh (AM):**

All these 4 appeals filed by the revenue are directed against the different orders of ld. CIT(A) NFAC passed u/s 250 of the Income Tax Act, 1961 for Assessment Year 2016-17 to 2019-20. Since similar issue on identical facts are involved in these cases, therefore for the sake of convenience all these appeals are adjudicated together by this common order by taking ITA No. 4410/Mum/2023 as a lead case and its finding will be applied mutatis mutandis to the other 3 appeals wherever it is applicable.

## **ITA No. 4410/Mum/2023**

- “1. Whether on the facts and circumstances of the case and in law, the CIT(A) erred in directing the AO to give credit of TDS, which appeared in 26AS subsequent to filing of ITR by assessee, without giving finding that the corresponding income has been offered to tax by the assessee or without directing AO to verify the same.*
- 2. The appellant prays that the order of the CIT(A) on the above grounds be set aside and that of the Assessing Officer be restored.*
- 3. The appellant craves leave to amend, or alter any grounds or add a new ground, which may be necessary.”*

2. Fact in brief is that assessee L & T Infrastructure Finance Company Ltd. has filed its return of income declaring total income of Rs.375,12,55,660/- on 15.10.2016. The assessee provides financial products and services to its customers engaged in infrastructure development and construction. In this case assessment u/s 143(3) of the Act was completed on 27.12.2018 determining total income at Rs.3,75,74,80,410/-. Subsequently, the case was reopened u/s 147 of the Act by issuing of notice u/s 148 of the Act on 31.03.2021 on the issue of excessive deduction claimed u/s 36(1)(viiia) of the Act 1961. In its original and revised return of income the assessee has claimed TDS credit amounting to Rs.208,68,35,381/-. Subsequently, in the return filed pursuant to notice u/s 148 the assessee has claimed TDS credit of Rs.219,85,92,158/-. However, the AO-NFAC has not granted TDS credit of Rs.220,61,47,656/- as reflected in latest Form No. 26AS.

3. The assessee filed the appeal before the ld. CIT(A) to grant full credit of TDS based on the amount shown in the latest Form No. 26AS. The ld. CIT(A) held that assessee should be granted total TDS credit of Rs.220,61,47,656/- as reflected in the latest Form 26AS.

4. Heard both the sides and perused the material on record. During the course of appellate proceedings before us at the outset the Id. Counsel submitted that identical issue on similar fact has been adjudicated by the coordinate bench of the ITAT, Mumbai in favour of the assessee vide ITA no. 2384/Mum/2023 dated 30.10.2023 in the case of The DCIT-14(1)(1) Vs. L & T Infrastructure Finance Company Ltd. and the shortfall in grant of TDS credit was due to late filing of TDS return by various customer because of which the relevant credit did not reflect in Form No. 26AS for the relevant period. The assessee has also enclosed annexure of detail of tax deducted at source by the various parties and also filed copies of profit and loss account for the year ended 31.03.2016 and balance sheet as on 31.03.2016. The assessee has also filed detail of revenue as per the return of income filed in ITR-6 to the amount of Rs.24,36,15,08,699/- compared to revenue as per Form No. 26AS to the amount of Rs.22,24,70,42,263/- which demonstrate that total income as per return of income was more than the amount reflected in the Form No. 26AS. The revenue has not brought any contrary material to disprove the aforesaid material fact that shortfall in grant of TDS credit was only due to late filing of TDS returns by various customers because of which the relevant credit did not reflect in the Form No. 26AS. We have also perused the decision of ITAT in the case of the assessee itself on the same issue on similar fact in the case of The DCIT-14(1)(1) Vs. L & T Infrastructure Finance Company Ltd. as discussed supra. The relevant part of the decision is reproduced as under:

*“13. Ground Nos. 1 and 2 relate to the short granting of the credit. From the facts, we find that as per the revised return of income, the assessee has claimed TDS credit of Rs.168,45,14,220/-. However, the Learned Assessing Officer granted the credit of only Rs.136,06,39,690/-. In Form No.26AS, later on, because of late deposit of TDS by some of the customers, a further incremental TDS credit of Rs.5,60,33,885/- was reflected. The Learned CIT-A held that the credit available in Form No.26As should have been granted by the Learned Assessing Officer. We do not find any infirmity in the order of the Learned CIT-A in granting the total credit of TDS of Rs.174,05,48,105/-. It is not the case of*

*the Revenue that the income comprising the TDS has not been offered by the assessee in its income in the impugned assessment year. Accordingly, we confirm the order of the Learned CIT-A on this issue and dismiss ground Nos.1 and 2 of the appeal of the Revenue.”*

Considering material on record as discussed supra in this order, we don't find any error in the decision of ld. CIT(A) in granting TDS credit of Rs.220,61,47,656/- Therefore, following the decision of ITAT as referred supra, we don't find any infirmity in the order of ld. CIT(A). Accordingly, appeal of the revenue is dismissed.

5. The appeal of the revenue is dismissed.

**ITA No. 4409/Mum/2023**

6. Since we have adjudicated the similar issue on identical facts vide ITA No.4410/Mum/2023 while adjudicating the appeal of the Revenue for A.Y. 2016-17 as supra in this order therefore applying the same finding as mutatis mutandis to ITA No.4409/Mum/2023, the appeal of the Revenue is dismissed.

**ITA No. 3566/Mum/2023**

7. Since we have adjudicated the similar issue on identical facts vide ITA No.4410/Mum/2023 while adjudicating the appeal of the Revenue for A.Y. 2016-17 as supra in this order therefore applying the same finding as mutatis mutandis to ITA No.3566/Mum/2023, the appeal of the Revenue is dismissed.

**ITA No. 3567/Mum/2023**

8. Since we have adjudicated the similar issue on identical facts vide ITA No.4410/Mum/2023 while adjudicating the appeal of the Revenue for A.Y. 2016-17 as supra in this order therefore applying the same finding as mutatis mutandis to ITA No.3567/Mum/2023, the appeal of the Revenue is also dismissed.

9. In the result, all the appeals of the revenue are dismissed.

Order pronounced in the open court on 05.07.2024

Sd/-  
(Rahul Chaudhary)  
Judicial Member

Sd/-  
(Amarjit Singh)  
Accountant Member

Place: Mumbai  
Date 05.07.2024  
Rohit: PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench,**  
**Mumbai.**