

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं  
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।  
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM  
AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकरअपील सं./ ITA Nos.1322, 1323, 1324 & 1325/Chny/2023  
(निर्धारणवर्ष / Assessment Years: 2018-19, 2019-20, 2020-21 &  
2021-2022)**

Sulekha.Com New Media Private  
Limited,  
2<sup>nd</sup> floor Campus,  
1A RMZ Millenia Business Park,  
143, Dr. MGR Main Road,  
Perungudi, Kandanchavadi,  
Chennai 600 096.

**Vs.** The Deputy Commissioner of  
Income Tax,  
TDS Circle 3(1)  
Chennai.

**[PAN: AADCM 6938R]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri. V. Ravichandran, C.A.,  
: Shri. ARV Srinivasan, IRS, Addl.CIT.

सुनवाई की तारीख/Date of Hearing

: 08.07.2024

घोषणा की तारीख /Date of Pronouncement

: 08.07.2024

**आदेश / ORDER**

**PER MANU KUMAR GIRI (Judicial Member)**

This bunch of four appeals being ITA Nos.1322-1325/Chny/2023 filed by the assessee SULEKHA.COM NEW INDIA PRIVATE LIMITED are directed against separate orders of even date 27.09.2023 passed by the learned Commissioner of

Income Tax (Appeals) [‘CIT(A)’ in short], National Faceless Appeal Centre (NFAC), Delhi for the assessment years 2018-19 to 2021-22.

2. The assessee has raised common grounds of appeal for all four assessment years, therefore, for the sake of brevity grounds of appeal filed in ITA No.1322/Chny/2023 for the assessment year 2018-19 is being taken as lead case and our order thereon will mutatis mutandis apply to other years appeal accordingly. Grounds of appeal filed in ITA No.1322/Chny/2023 is reproduced as under:-

*"1. The order of the learned CIT Appeals is contrary to law and the facts of the case.*

*2. The learned CIT Appeals erred in holding that payment for Microsoft Azure and for webhosting were technical services liable to TDS.*

*3. The learned CIT Appeals ought to have appreciated that on account of the CBDT notification No. 12/2012, the said amount was not liable to tax deduction.*

*4. The learned CIT Appeals erred in holding that tax was required to be deducted on communication costs including leased line charges, internet charges, etc.*

*5. The levy of tax and interest is excessive.*

*6. The Appellant craves leave to raise additional grounds"*

3. Brief facts of the case are that the assessee, M/s SULEKHA.COM NEW MEDIA PVT. LTD. is a private limited company engaged in the business of providing various expert services in a technology-driven platform that helps service providers attract customer looking for those services. A TDS Survey was conducted at the assessee's premises on 07.12.2021. During the course of the survey, statement was recorded

from Shri. Madhu, Mohan, S/o S Anbumani, Associate Director, Finance M/s Sulekha.Com New Media Pvt Ltd where Shri. Madhu Mohan stated that Site/Web Hosting Charges is paid to a vendor called Power Centre called POWER CENTRE who is a Microsoft authorized dealer for Azure Cloud Software and accepted that TDS has not been deducted on the same and Communication Costs include payment to PRI Telecom lines, Leased Broadband Lines and Mobile Expenses and Shri. Madhu Mohan had accepted that no TDS has been deducted on the same. It was revealed that the TDS was not deducted on WEB/SITE Hosting expenses and communication costs. The Id. Assessing officer, TDS ('AO' in short) issued a show cause notice dated 11.07.2022 to the assessee for the FY 2017-18 as to why the assessee should not be treated "assessee in default" since as per the Income Tax Act and the nature of activities of the Azure Cloud Software and Service Providers like Airtel, TATA, and Reliance etc. TDS need to be deducted at 10% u/s 194J for Web Hosting Charges and Leased Line Charges. Before AO no response was filed by the assessee to the notice dated 11.07.2022. However, a letter dated 16.12.2021 was filed by the assessee. The AO passed an order under section 201(1)/201(1A) of the Income Tax Act, 1961 ('Act' in short) dated 16.12.2022 wherein AO held the assessee as 'deemed to be an assessee in default' as the assessee failed to deduct the TDS and pay the amount to the Central Government Treasury. Before Id.CIT(A) none appeared for the appellant. The Id.CIT(A) on the basis of material on record upheld the order of AO. Now the assessee is in appeal before us.

4. The appellant has filed Petition to produce additional evidence under Rule 29 of the Income Tax Appellate Tribunal Rules 1963. Ld.Counsel further submitted that before both the lower authorities assessee was not adequately heard or given chance to produce relevant documents. Ld.DR of revenue vehemently opposed the admission of additional evidence under Rule 29 of the Income Tax Appellate Tribunal Rules 1963. Ld.DR further submitted that if the additional evidence under Rule 29 of the Income Tax Appellate Tribunal Rules 1963 is admitted then AO must be given chance to go through the such additional evidence and verify the same.

5. We have heard the rival submissions of the parties, perused the orders of the lower authorities and the petition to produce additional evidence under Rule 29 of the Income Tax Appellate Tribunal Rules 1963 filed by the assessee. We find that both the authorities below have not provided proper opportunity to assessee to represent and substantiate the case. Therefore, we are of considered view that the case requires fresh consideration by the AO. Hence, we accordingly set aside the impugned order of Id.CIT(A) to the file of AO for de novo adjudication. Ld.AO, before de novo adjudication will take into consideration all relevant documents / evidence filed by the assessee and will grand proper opportunity of hearing to the assessee. The assessee is also directed to appear before AO and substantiate its case failing which AO shall be at liberty to proceed with disposal of case according to law.

6. In the result, all four these appeals filed by the assessee are allowed for statistical purposes.

Order pronounced at the time of hearing on 8<sup>th</sup> July, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

**(MANU KUMAR GIRI)**

**न्यायिक सदस्य / JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated : 08-07-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF