

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
DR. BRR KUMAR, ACCOUNTANT MEMBER**

**ITA No. 3913/DEL/2023  
Assessment year: 2008-09**

<b>InterGlobe Enterprises Pvt. Ltd., 3<sup>rd</sup> Floor, Dr. Gopal Das Bhawan, 28, Barakhamba Road, New Delhi-110001</b>	<u>Vs</u>	<b>ACIT, Circle 10(1), New Delhi.</b>
<b>PAN: AAACG 3351 K</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	Shri Rohit Jain, Adv. & Ms. Somya Jain, CA
<b>Department represented by</b>	Ms. Ritu Sharma, CIT(DR)
<b>Date of hearing</b>	11.07.2024
<b>Date of pronouncement</b>	19.07.2024

**ORDER**

**PER SAKTIJIT DEY, VICE PRESIDENT:**

This is an appeal by the assessee against order dated 02.11.2023 passed by National Faceless Appeal Centre (NFAC), Delhi for the assessment years 2008-09.

2. The dispute in the present appeal is confined to disallowance of claim of TDS of Rs. 54,08,187/-. Briefly, the facts are, the assessee is a resident corporate entity. For the assessment year under dispute assessee filed its return of income on

24.09.2008 declaring income of Rs. 11,13,88,188/-. Subsequently, on 18.02.2010 assessee filed revised return of income declaring income of Rs. 10,90,63,680/-. Assessment in case of assessee was completed u/s 143(3) of the Income-tax Act, 1961 vide order dated 10.12.2010, determining the total income at Rs. 11,36,68,850/- after making addition/ disallowance of Rs. 46,05,172/- u/s 14A of the Act read with Rule 8D. Contesting such disallowance, assessee preferred appeal before learned First Appellate Authority. Being unsuccessful there, assessee carried the dispute to the Tribunal. While deciding assessee's appeal, the Tribunal granted partial relief.

3. While giving effect to the order of the Tribunal, the Assessing Officer passed an order on 10.01.2023, determining the total income of the assessee at Rs. 10,97,63,530/-. However, while doing so, he did not allow credit of TDS for an amount of Rs. 54,08,187/-. Being aggrieved, the assessee preferred an appeal before learned First Appellate Authority. While deciding assessee's appeal, the First Appellate Authority directed the Assessing Officer to examine assessee's claim and allow it, if TDS credit is available in form 26AS. He further directed the Assessing Officer to ensure that the income corresponding to the TDS claimed included in the total income of the assessee.

4. Before us, learned counsel appearing for the assessee submitted that this is the first year wherein the concept of Form 26AS was introduced. Therefore, in many instances Form 26AS could not be uploaded by the deductor. She submitted, facility to view/ download Form 26AS was available only from assessment year 2009-10 onwards. In this context, learned counsel drew our attention to copy of screenshot of the TRACES portal and copy of brochure issued by the Income Tax Department, indicating that Form 26AS can be viewed from assessment year 2009-10 onwards. Thus, she submitted, the assessee cannot be directed to perform an

impossible act of furnishing Form 26AS when it can only be viewed from assessment year 2009-10 onwards. He submitted, to justify the claim of TDS the assessee had furnished documentary evidence in the form of TDS certificates. Thus, she submitted, assessee's claim of TDS must be allowed without insisting upon furnishing Form 26AS.

5. Learned Departmental Representative relied upon the observation of Assessing Officer and First Appellate Authority.

6. We have considered rival submissions and perused materials on record. Undisputedly, assessee's claim of TDS was rejected by the Assessing Officer, primarily on the ground of non availability of Form 26AS. Though, learned First Appellate Authority, in principle, has accepted assessee's claim of TDS, however, he has directed the Assessing Officer to verify whether such TDS credit is available in Form 26AS. In this context the specific plea of the assessee is that Form 26AS is available for viewing / uploading in the system of the Department only from assessment year 2009-10 onwards. On perusal of the screen shot of the TRACES portal, placed at page 105 of the paper book, and copy of brochure, issued by the Income Tax Department in December 2021, placed at page 106 of the paper book, we find force in assessee's contention that Form 26AS was not available for view / upload in assessment year 2008-09. Keeping in perspective the aforesaid factual position, we direct the Assessing Officer to examine and allow assessee's claim of TDS, if the assessee is able to prove such deduction through other authentic evidences including TDS certificates, without insisting upon furnishing of Form 26AS. However, before deciding the issue, assessee must be provided due and reasonable opportunity of being heard. Ground is allowed for statistical purposes.

7. In the result, appeal is allowed for statistical purposes.

Order pronounced in open court on 19.07.2024.

**Sd/-**  
**(DR. BRR KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(SAKTIJIT DEY )**  
**VICE PRESIDENT**

**Dated: 19.07.2024.**

\*MP\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI