

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"I" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SMT. KAVITHA RAJAGOPAL, HON'BLE JUDICIAL MEMBER

I.T.A. No. 11/Mum/2024

Assessment Year: 2017-18

&

I.T.A. No. 2170/Mum/2024

Assessment Year: 2018-19

Telebyte Technologies PTE Limited (141, Middle Road, Singaore) 907, Kohinoor Square N.C. Kelkar Road Opp. Shivsena Bhawan Dadar (W) Mumbai - 400028 [PAN: AAECT2763J]	Vs	Commissioner of Income Tax, Appeal -58, Mumbai
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Aditya Ramchandran, A/R
Revenue by :	Shri Anil Sant, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 16/07/2024
घोषणा की तारीख /Date of Pronouncement: 16/07/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

I.T.A. No. 11/Mum/2024 & I.T.A. No. 2170/Mum/2024, are two separate appeals by the assessee preferred against two separate orders of the ld. CIT(A)-58, Mumbai, dt. 08/06/2023 and 31/01/2024, pertaining to AY 2017-18 and 2018-19, respectively.

2. The captioned appeals are filed after the expiry of period of limitation with an application for condonation of delay. We have carefully considered the reasons for delay in filing of the appeal and we are convinced that the assessee was prevented by sufficient cause for not filing the appeals on time. Hence, the delay is condoned and the appeals admitted.

3. Since common grievance is involved in both the appeals, they were heard together and are disposed off by this common order for the sake of convenience and brevity.

4. The common grievance relates to the non-grant of TDS credit, though the quantum may differ.

5. The quarrel revolves around Rule 37BA of the Income Tax Rules, 1962 (in short 'the Rules'), according to which TDS credit is allowable in the year in which the assessee has offered corresponding income for taxation. Since the income of the assessee, as claimed by the Id. Counsel for the assessee, is exempt from tax in India, therefore, the same was not offered for taxation in the return of income filed by the assessee.

6. Since the payer has deducted tax at source out of abundant precaution, the assessee claimed refund of the tax deducted at source by filing the impugned returns of income and the said credit was denied by the revenue authorities drawing support from Rule 37BA of the Rules, though the credit is duly reflected in Form 26AS in the Income-tax portal.

7. We are of the considered view that tax credit cannot be denied to the assessee if the same is reflected in the Income-tax portal in Form 26AS. Therefore, in the interest of justice and fair play, we direct the AO to allow the tax credit in the respective Assessment Years. However, at the same time, the assessee is directed to demonstrate that the income on which the tax has been deducted at source is not taxable in India as per the provisions of law. The AO is directed to examine the same and after verification, allow the tax credit.

8. In the result, both the appeal of the assessee are allowed for statistical purposes.

Order pronounced in the Court on 16th July, 2024 at Mumbai.

Sd/-

(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 16/07/2024

SC S/P

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. □ पीलर्षी / The Appellant
2. प्रत्यर्षी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (□ पील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai