

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2486/दिल्ली/2024 (नि.व. 2020-21)

ITA No.2486/DEL/2024 (A.Y.2020-21)

Den Networks Ltd.,
236 Okhala Phase-3,
Delhi 110020

PAN: AACCD-6420-E

बनाम Vs.

..... अपीलार्थी/Appellant

National Faceless Appeal Centre,
Delhi 11002

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : S/Shri Kunal Verma & Omprakash,
Chartered Accountants

प्रतिवादीद्वारा/ Respondent by : Shri Rajesh Tiwari, Sr. DR

सुनवाई की तिथि/ Date of hearing : 10/12/2024

घोषणा की तिथि/ Date of pronouncement: : 10/12/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 22.03.2024, for assessment year 2020-21.

2. Shri Kunal Verma, appearing on behalf of the assessee submits that the assessee had filed its return of income for AY 2020-21 claiming refund of Rs.45,03,36,320/- and opted for taxation u/s. 115BAA of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The return of income was processed by Centralized Processing Center (CPC), while processing return of income, the CPC computed tax under MAT provisions without considering the fact that the assessee has opted for taxation u/s. 115BAA of the Act. This was a mistake apparent on

record while processing the return by CPC. The assessee filed rectification request for reprocessing of return on 30.09.2021. The return of income was reprocessed by CPC, vide rectification order dated 04.03.2022 the CPC determined refund of Rs.47,11,06,594/-. In rectification order passed u/s. 154 of the Act, the CPC determined taxable income of assessee at Rs.75,26,590/- . However, in the said order it was not clear as to how such taxable income and tax liability was determined. The assessee again filed rectification request on 11.07.2022. The CPC vide rectification order dated 02.08.2022 made addition u/s. 43B and 36(1)(va) of the Act determining total income of Rs.75,26,590/-. The assessee filed third rectification petition on 03.11.2022, the CPC in response to said rectification petition vide order dated 15.12.2022 deleted the adjustment on account of disallowance made u/s. 43B of the Act and determined taxable income at Rs.23,25,793/- on account of late deposit of contribution towards Provident Fund amounting to Rs.23,25,793/- u/s. 36(1)(va) of the Act. The Id. AR of the assessee submits that the assessee had made payment of Rs.23,25,793/- on account of employees share of Provident Fund on 10th July 2019, which was well before the due date of payment i.e. 15.07.2019. The CPC disallowed payment under PPF on the ground that payment is not made on or before the due date as specified under the respective Act. In the Tax Audit Report, the Auditor inadvertently mentioned the date of payment as 10th July 2020 instead of 10th July 2019. The Auditors vide Revised Tax Audit Report (at pages 203 to 216 of the paper book) have rectified mistake manually. A copy of Provident Fund challan dated 10.07.2019 as at page 222 to 225 of the paper book. Against the order passed u/s. 154 of the Act dated 15.12.2022, the assessee filed appeal before the CIT(A). The CIT(A) dismissed appeal of the assessee in an ex-parte proceedings.

3. Per contra, Shri Rajesh Tiwari representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee.

4. Both sides heard. The assessee in appeal has raised multiple grounds relating to single issue i.e. disallowance of Rs.23,25,793/- u/s. 36(1)(va) of the Act on account of late payment of employees contribution to Provident Fund for the month of June 2019. The short contention of the assessee is that the assessee had made payment of PPF for the month of June 2019 on 10.07.2019 i.e. well before the due date. However, in the tax Audited Report the date was wrongly mentioned as 10th July 2020. To substantiate his submissions, the Id. AR of assessee has placed on record copy of Provident Fund challan at pages 222 to 225 of the paper book. The assessee has also placed on record revised Tax Audit Report at pages 203 to 216 of the paper book. Considering entire facts of the case, I deem it appropriate to restore this issue to AO for the limited purpose of verification of actual date of payment of PPF by the assessee for the month of June 2019. In case the assessee has deposited PPF amount on or before the due date as specified under the provisions of relevant Act, no disallowance u/s. 36(1)(va) of the Act is warranted.

5. In the result, impugned order is *set aside* and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 10th day of December, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 10/12/2024

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI