

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 5705/MUM/2024
Assessment Year: 2010-11**

DCIT(IT)-2(2)(1),
Room No. 606, 6th floor,
Kautilya Bhavan, G Block, BKC,
Mumbai-400051.

Appellant

Vs. Ebay International AG
18th floor, Express Towers,
Nariman Point,
Mumbai-400021.
PAN NO. AABCE 4327 L
Respondent

Assessee by : Mr. Pranay Gandhi
Revenue by : Mr. Hemanshu Joshi, Sr. DR

Date of Hearing : 18/02/2025
Date of pronouncement : 19/02/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal has been preferred by the Revenue against order dated 02.08.2024 passed by the Ld. Commissioner of Income-tax-56, Mumbai [in short 'the Ld. CIT(A)'] for assessment year 2010-11 in relation to rectification order passed by the Assessing Officer in terms of section 154 of the Income-tax Act, 1961 (in short 'the Act').



2. The grounds raised by the Revenue are reproduced as under:

1. Whether on the facts and circumstances of the case and in law the Ld. CIT(A) erred to directed the A.O to verify and grant the additional TDS credit of Rs. 2,28,36,127/-.

2. Whether on the facts and circumstances of the case and in law the Ld.CIT(A) erred to consider the assessee's letter dated 30.03.2021 wherein the assessee had not filed revised return or application u/s 119(2)(b) of the Act for claiming additional TDS of Rs. 2,28,36, 127/-•

3. Whether on the facts and circumstances of the case and in law the Ld. CIT(A) erred not to consider the adjudication of the AO as to the provisions of section 155(14) of the Act are not applicable to the assessee.

3. We have carefully considered the submissions advanced by both parties and have perused the relevant material on record. The primary issue for our consideration is whether the assessee's claim for additional credit of Tax Deducted at Source (TDS) amounting to Rs. 2,28,36,127/- could be entertained in the course of rectification proceedings. The assessee, through its rectification application, sought credit for the aforesaid TDS amount. However, the Assessing Officer rejected the claim on the ground that it had not been made in the original return of income filed by the assessee. The Assessing Officer was of the view that the appropriate course of action for the assessee was either to file a revised return within the prescribed time or to seek relief by way of an application under section 119(2)(b) of the Act. Upon appeal, the learned CIT(A), after due consideration, directed the Assessing Officer to verify the claim and



allow the TDS credit in accordance with the law. The relevant finding of the Ld. CIT(A) is reproduced as under:

“23. Accordingly, the A.O. is directed to verify and grant the additional TDS credit of Rs.2,28,36.127/- to the appellant as per law. Ground Nos. 1 to 4 of the appeal is hereby treated as allowed for statistical purpose.”

4. In our opinion, the finding of the Ld. CIT(A) on the issue in dispute is well reasoned as he has only directed to verify the claim and allow in accordance with law. The approach adopted by the learned CIT(A) is in consonance with the principles of natural justice. The mere fact that the claim was not made in the original return cannot, by itself, be a ground to deny the legitimate credit of TDS if the assessee is otherwise entitled to the same. The object of tax administration is to ensure correct and fair assessment of income, and any procedural lapse should not result in an undue burden on the taxpayer. It is well established that where a tax has already been deducted at source and deposited with the government, the corresponding credit must be granted to the assessee, subject to verification of facts. Accordingly, we find no infirmity in the order of the learned CIT(A) in directing the Assessing Officer to verify the claim and grant the credit as per law. We, therefore, uphold the said direction, emphasizing that the Assessing Officer shall ensure due verification before granting the credit of TDS to the assessee. We order accordingly. The grounds of appeal of the Revenue are accordingly dismissed.



4. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 19/02/2025.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 19/02/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai