

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH  
PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI G D PADMAHSHALI ACCOUNTANT MEMBER

I T A. Nos.211/PAN/2024  
(A.Y.2023-24 )

Demello Telepower Pvt Ltd, H.no.240,Cotulvaddo, Saligao-403511, Goa	Vs .	ACIT-Circle 1(1), Aaykar Bhavan, EDC complex, Patto Plaza, Panjim-403001, Goa.
PAN .No.AADCD6928L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Ms.Tanamayee Rajkumar.AR
Revenue by	Mr.Vimalrajperiyagounden.Sr.DR

सुनवाई की तारीख/Date of Hearing	27.03.2025
घोषणा की तारीख/Date of Pronouncement	01.04.2025

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of Addl/JCIT(A) passed u/sec143(1) and U/sec 250 of the Act.The assessee has raised the grounds of appeal challenging the ex parte order of the Addl/JCIT(A).

2. The brief facts of the case are that, the assessee company is engaged in the business of providing passive telecom infrastructure services. The assessee has filed the

return of income for the A.Y 2023-24 on 26.10.2023 disclosing a total income of Rs.12,82,01,372/- and claimed TDS credit as per Form no 26AS aggregating to Rs.1,90,03,134/-. Whereas the return of income was processed under section 143(1) of the Act restricting the TDS credit to the extent of Rs.85,57,839/- under section 199 of the Act r.w.r 37B of the IT Rules with the workings that the receipts offered to tax in the return of income filed is lower than the gross receipts as per form.no.26AS and the order was passed on 9.01.2024.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and since there was no compliance by the assessee to notices. Therefore the CIT(A) considering the information on record has dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the Assessing officer/CPC overlooking the facts of the case. The assessee has not received notices of hearing on the Email.ID provided in Form.no.35 and hence there is non compliance. Further the assessee has a good case on

merits and shall substantiate with the material evidences and prayed for an opportunity to explain before the lower authorities and the Ld.AR has substantiated the submissions with factual paper book. Per Contra, the Ld.DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie the CIT(A) has passed the order considering the fact that there is no compliance nor appearance in spite of providing adequate opportunity of hearing and the notices were issued. Therefore, the JCIT(A) was of the opinion that the assessee is not interested in prosecuting the appeal and passed the ex parte order. The CIT(A) has issued the notices of hearing on various dates referred at Page 4 Para 6&6.1 of the order and there was no response and thus the Ld.JCIT(A) came to a conclusion that the assessee is not interested and decided the appeal based on the information available on record. Whereas the assessee has raised grounds of appeal challenging the action of the A,O/CPC and there could be various reasons for non appearance which cannot be overruled. Therefore, considering the facts and principles of natural justice, we shall provide with one more opportunity of hearing to the assessee to substantiate the case with evidences and information. Accordingly, we set aside the order of the CIT(A) and remit the disputed issue to the file of the CIT(A) to adjudicate afresh and the assessee should be

provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the Appeal. And, we allow the grounds of appeal of the assessee for statistical purpose.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 01.04.2025.

Sd/-

**(GD PADMAHSHALI)  
ACCOUNTANT MEMBER**

Panaji Dated: 01/04/2025

Sd/-

**(PAVAN KUMAR GADALE)  
JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,  
(Asstt. Registrar)ITAT,  
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			