

|आयकर अपीलीय न्यायाधिकरण न्यायपीठ, मुंबई|

IN THE INCOME-TAX APPELLATE TRIBUNAL "E" BENCH,
MUMBAI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 2423/MUM/2025

(निर्धारण वर्ष / Assessment Year :2012-13)

आयकर अपील सं./ITA No. 2424/MUM/2025

(निर्धारण वर्ष / Assessment Year :2020-21)

DCIT, CC 2(3), Mumbai Room No. 803, 8 th Floor, Pratishtha Bhawan, Churchgate, Mumbai- 400020	v/s. बनाम	Hinduja Global Solutions Ltd. 1 st Floor, Hinduja House, Dr. Annie Besant Road, Worli Mumbai, Worli S.O. Mumbai, Maharashtra- 400018
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AA ACT1763A		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

निर्धारिती की ओर से /Assessee by:	None
राजस्व की ओर से /Revenue by:	Shri Ritesh Misra a/w Shri Hemanshu Joshi

सुनवाई की तारीख / Date of Hearing	04.06.2025
घोषणा की तारीख/Date of Pronouncement	09.06.2025

आदेश / O R D E R

PER NARENDRA KUMAR BILLAIYA [A.M.]:-

ITA Nos. 2423/Mum/2025 & 2424/Mum/2025 are two separate appeals by the revenue preferred against two separate orders of the Commissioner of Income-tax (Appeals), Mumbai-48 [hereinafter referred to as "CIT(A)"] dated

29.01.2025 pertaining to Assessment Year [AY] 2012-13 and the order of CIT(A) dated 17.01.2025 pertaining to AY 2020-21.

2. Both these appeals were heard together and disposed of by this common order for the sake of convenience and brevity.

3. None appeared on behalf of the assessee in spite of notice. Therefore, we decided to proceed exparte.

4. DR was heard at length, and case records were carefully perused. We will first address the grievance raised in ITA No. 2423/Mum/2025.

ITA No. 2423/Mum/2025

5. The solitary grievance of the revenue is that the CIT(A) erred in deleting the disallowance of Rs. 7,65,58,000/- made u/s 40(a)(ia) of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for non-deduction of TDS u/s 195 on payments towards internet, broadband and bandwidth charges.

6. The assessee company is engaged in providing information technology and information technology-enabled services. During the course of the scrutiny assessment proceedings, the AO noticed that the assessee has made a payment of Rs. 7,65,58,000/- for connectivity cost in foreign currency. The assessee was show caused as to justify the claim of expenses and why no TDS has been deducted on the same. The assessee filed a detailed reply, which did not find any favour with the AO, who was of the opinion that the assessee has incurred costs of the nature of internet, broadband and bandwidth charges which clearly



fall under the definition of royalty, attracting TDS provisions. The AO accordingly made the disallowances u/s 40(a)(i) at Rs. 7,65,58,000/- and Rs. 3,94,00,000/-.

7. The assessee challenged the disallowances before the CIT(A). It was firmly contended that the impugned payments do not attract TDS liability as the impugned services are not for any right for use or right to use any property or information or patent, invention, model, design, secret formula or process or trade mark or similar property. After considering the facts and submissions, the Ld. CIT(A) found that the Hon'ble Bombay High Court in the matter of *UTV Entertainment Television 399 ITR 433* has held that the placement charges paid by the assessee are standard fees paid to cable operators and multi-system operators for placing signals or preferred bandwidth, and therefore, cannot be constituted as royalty. Further, drawing support from the decision of the Hon'ble Madras High Court in the matter of *Skycell Communications Services Ltd. 251 ITR 53*, the CIT(A) deleted the disallowance of Rs. 7,65,58,000/-

8. Insofar as the disallowance of Rs. 3,94,00,000/- is concerned, the CIT(A) found that on Rs. 2,08,01,289/- paid in India, the assessee has deducted tax at applicable rates and on payment of Rs. 1,85,98,711/- paid by the overseas branch, the assessee has deducted tax as per the Philippines tax law. The CIT(A) deleted the disallowance of Rs. 3,94,00,000/-, further drawing support from the decision of the Hon'ble Delhi High Court in the case of *Estel Communications Pvt. Ltd. 318 ITR 185*.



9. Before us, DR strongly supported the findings of the AO but could not bring any distinguishing decision in favour of the revenue, nor could point out any error or infirmity in the findings of the CIT(A).

10. After giving a careful consideration to the findings of the CIT(A), we find that the decision of the CIT(A) is based upon the decisions of the Hon'ble jurisdictional High Court of Bombay, Hon'ble Madras High Court and Hon'ble Delhi High Court (supra). We, therefore, do not find any reason to interfere with the findings of the CIT(A). ITA No. 2423/Mum/2025 is accordingly dismissed.

ITA No. 2424/Mum/2025

11. The only grievance of the revenue is that the CIT(A) erred in deleting the disallowance of the deduction claim of CSR donations u/s 80G of the Act by overlooking explanation 2 to section 37(1) of the Act.

12. Briefly stated, the facts of the case are that during the course of the scrutiny assessment proceedings, the AO noticed that the assessee has claimed deduction of Rs. 2,17,84,962/- u/s 80G of the Act with respect to donations made towards CSR activities. The AO accordingly disallowed the same.

13. The assessee challenged the addition before the CIT(A). Before CIT(A), the assessee strongly contended that it has not claimed the expenditure under the head CSR but has claimed deduction as donations u/s 80G of the Act. After considering the facts and submissions and drawing support from various decisions of the coordinate benches, the CIT(A) deleted the impugned addition.

Before us, DR strongly supported the findings of the AO.



14. We have carefully considered the orders of the authorities below. It is true that the assessee has claimed donations u/s 80G of the Act and not as CSR expenses, which are now disallowable u/s 37(1) of the Act r.w. Explanation 2 thereon. The coordinate bench in the case of *Motilal Oswal Securities Ltd.* in ITA No. 1795/Mum/2023 order dated 18.08.2023, following the decision of the coordinate bench in the case of *Allegis Services India Pvt. Ltd.* in ITA No. 1693/Beng./2019 and in the case of *JMS Mining Pvt. Ltd.* 130 taxmann.com 118 (Kolkata Trib.) has persistently held that if the assessee satisfies the condition u/s 80G of the donees, the claim of the assessee for deduction of CSR expenses/contributions u/s 80G has to be allowed.

15. Respectfully following the decision of the coordinate benches (supra), we decline to interfere with the findings of the CIT(A). ITA No. 2424/Mum/2025 is also dismissed.

16. In the result, both the appeals of the revenue are dismissed.

Order pronounced in the open court on 09.06.2025.

Sd/-

SAKTIJITT DEY

(उपाध्यक्ष/VICE PRESIDENT)

Sd/-

NARENDRA KUMAR BILLAIYA

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 09.06.2025

अनिकेत सिंह राजपूत/ स्टेनो



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

**सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,**

**सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.**

