

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.443/Bang/2025
Assessment year : 2014-15

Tyco Fire & Security India Private Ltd., D-601, Campus 6 th Floor, RMZ Centennial, Kundanahalli, Main road, Mahadevapura S.O., Bengaluru North. PAN: AABCT 0087C	Vs.	The Deputy Commissioner of Income Tax, International Taxation, Circle 2(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ninad Patade, AR
Respondent by	:	Dr. Divya K.J., CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	08.07.2025
Date of Pronouncement	:	20.08.2025

ORDER

Per Soundararajan K, Judicial Member

This appeal filed by the assessee is challenging the order of the Id. CIT(Appeals), National Faceless Appeal Centre, Delhi (NFAC) dated 20.12.2024 in respect of assessment year 2014-15.

2. The brief facts of the case are that the assessee is a company and a part of Tyco Group which is a leader in global fire safety and security

solutions having more than 1,000 locations all over the world. During the assessment year, the assessee had entered into service agreements with Tyco Fire & Security Asia, Singapore and Tyco International Management Company LLC to receive certain management services. The assessee remunerates such entities. Based on the information, the AO proceeded to pass an order u/s. 201(1) & 201(1A) of the Income Tax Act, 1961 [the Act] considering the assessee in default for the reason that the assessee had not deducted TDS while making payments to the said concerns. The assessee contended that remuneration given to the said entities would not qualify as fees for technical services / fees for included services under the India-Singapore and India-US DTAA's and therefore there is no default on the part of the assessee in not deducting TDS. The AO has not accepted the said claim and therefore the assessee had challenged the said order before the Id. CIT(Appeals).

3. The Id. CIT(A) based on Form 35 filed by the assessee had come to the conclusion that the AO had passed the order on 31.3.2021 whereas the appeal was filed on 01.10.2022 and therefore there is a delay in filing the appeal for which the assessee has not filed any application for condonation of such delay and therefore communicated the assessee that necessary application has to be filed for the said delay. The assessee had not responded to the said notices, but only sent a communication requesting for adjournment till 15.1.2025 for filing written submissions. Therefore the Id. CIT(A) was of the view that the assessee had not explained the reasons for such delay and also

not filed any application to condone the said delay, therefore the Id. CIT(A) has rejected the request for time to file the written submissions and dismissed the appeal on the ground of delay and also on the ground of filing incorrect particulars in col. 14 of Form 35. As against the said order, the assessee is in appeal before this Tribunal.

4. At the time of hearing, the Id. AR submitted that even though the AO had passed the order on 31.03.2021, the said order was communicated to the assessee on 02.09.2022 and the appeal was filed on 01.10.2022 within 30 days from the date of service of the order and therefore there was no delay in filing the appeal before the Id. CIT(A). The Id. AR further submitted that the assessee is having a good case on merits, if the DTAA of Singapore & USA was considered by the authorities. The Id. AR finally prayed an opportunity to appear before the Id. CIT(A).

5. The Id. DR relied on the orders of the lower authorities and prayed to dismiss the appeal.

6. We have heard the arguments of both the parties and perused the material available on record. We have gone through Form 35 filed by the assessee in which in col. 14 assessee has mentioned that there was no delay on the ground that the order of the AO was served on 02.09.2022, even though the order was dated 31.3.2021. In spite of several notices pointing out the said defect by the Id. CIT(A), the assessee has not explained the facts before the Id. CIT(A), but sought an adjournment for filing the written submissions. The Id. CIT(A) at

the first instance has to decide the admissibility of the appeal since the order under appeal is dated 31.03.2021 whereas the appeal was filed on 01.10.2022 and after satisfying himself that the order was served on 02.09.2022, the Id. CIT(A) could have admitted the appeal and granted time for filing the written submissions. Even though the said defect was communicated to the assessee, the assessee has not filed any application to condone the said delay or not filed any Affidavit showing that the order was served on 02.09.2022. In such circumstances, the Id. CIT(A) has no other way, except to reject the appeal filed by the assessee.

7. Before us, the Id. AR submitted that the order was served on the assessee on 02.09.2022 and the assessee is having evidence to show that the same was served on the above mentioned date. No doubt the assessee has not submitted any details before the Id. CIT(A), except Form 35 filed by the assessee in which the assessee has stated that there was no delay in filing the appeal. This fact should be ascertained by producing the relevant material and thereafter only the merits of the issue can be decided by the Id. CIT(A).

8. Considering the facts and circumstances of the case and also the fact that the appeal was not decided on merits, we deem it fit to remit this issue to the file of the Id. CIT(Appeals) with a direction to the assessee to place all the material before the Id. CIT(A) and prove that the assessment order was served on 02.09.2022. Thereafter, if necessary, the assessee can also file an application to admit the appeal

or to condone the delay, if any, and the Id. CIT(A) would decide the issue afresh on merits, after hearing the assessee. We are giving this concession to the assessee on the condition that assessee should pay a sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the Income Tax department towards costs and produce the receipt for payment of said costs to the Id. CIT(A) at the time of adjudicating the appeal.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 20th day of August, 2025.

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-
(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Bangalore,
Dated, the 20th August, 2025.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.