

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.3627/Mum/2023
(Assessment Year :2020-21)**

Canara Bank, Mumbai BKC Prime Corporate Canara Bank Building 1 st Floor, A- Wing,C-14, G-Block BKC, Bandra East ,Mumbai- 400020	Vs.	The ACIT, CPC, TDS, Aayakar Bhavan, Sector-3, Vaishali, Ghaziabad, Uttar Pradesh-201010
PAN/GIR No. MUMC20443D		
(Appellant)	..	(Respondent)

Assessee by	Shri. Ananthan
Revenue by	Shri. H.M. Bhatt (Sr. D.R.)
Date of Hearing	19/02/2024
Date of Pronouncement	26/02/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 21-08-2023, passed by National Faceless Appeal Centre

(NFAC), Delhi against order u/s. 200A for the assessment year 2020-21.

2. In the grounds raised, the assessee has challenged demand of Rs. 1,64,95,826/- u/s. 200A towards short deduction of TDS on interest payment made to Vodafone India Ltd. an interest u/s. 201(1A) amounting to Rs. 21,44,454/- which has been created by the AO in his order passed u/s. 144.

3. The brief facts are that the assessee has the branch of M/s. Canara Bank. During the financial year, 2019-2020, Vodafone India Ltd. (VIL) had placed with the assessee branch. The bank was provided with a lower TDS Certificate (LDC) dated 22-05-2019 by the depositor M/s Vodafone Idea Ltd. As per the said certificate, TDS on any interest upto Rs 30 Cr paid to the said depositor should be effected @ 3% On 19-10- 2019, the deposit was pre closed by the depositor and an interest of Rs 23,56,54,961 was paid after effecting a TDS of Rs 70,69,649/- The depositor produced another certificate u/s 197 on 22-10-2019. In the second certificate, though was dated 30-09-2019, was submitted to the Appellant Bank only on 22-10-2019. In the second certificate, the limit of the earlier certificate dated 22-05-2019 was modified to Rs '0'. It is on this basis, the impugned order has been passed by considering an amount of Rs 1,64,95,846/-being the 7% of the interest paid as the short deduction of TDS. Before us, the assessee has submitted the following facts:-

“During the year 2019-20, Vodafone Idea Limited (PAN AAACB2100P) ("the Customer") ("the deductee") had placed deposits with the Appellant. On 30-05-2019 the Appellant received a certificate u/s 197 (Certificate Ref. No. 197(1)/AAACB2100P/2019-20/1 dated 22-05-2019) from the Customer wherein the Income Tax Department had permitted the Appellant to make remittance of interest up to Rs. 30 Crores at a lower rate of TDS ie TDS at the rate of 3% for the period 22-05-2019 to 31-03-2020 vide Certificate No. 1AF0519EDL dated 22-05-2019. Based on such lower deduction certificate, on 19-10-2019, the Appellant had deducted TDS at the rate of 3% on the interest paid amounting to Rs. 23,56,54,961/- on the prematurely closed term deposit.

Subsequently, on 22-10-2019, the Appellant received a certificate u/s 197 (Certificate Ref. No. 197(1)/AAACB2100P/2019-2020/10 dated 30-09-2019) from the Customer wherein the limit in earlier Certificate No. 1AF0519EDL dated 22-05-2019 was modified to '0' but the rate of TDS remained unchanged at 3% and the validity period was revised from 22-05-2019 to 29-09-2019. Further, a new limit of Rs. 30 Crores was set with a lower TDS rate of 1.50% for the period 30-09-2019 to 31-03-2020 vide Certificate No. 1AA1019AFS At the year end, the Appellant deducted TDS at the rate of 1.50% on the interest accrued up to Rs. 30 Crores (for the period 30-09-2019 to 31-03-2020) based on the Certificate No. 1AA1019AFS and on the balance interest i.e. Rs. 23,93,42,984/-, TDS was deducted at 10% u/s 194A by the Appellant.

Summary of interest paid & TDS deducted under the Appellant's TAN for the interest paid / credited to the Customer during the year 2019-20 are given below

Date	Interest (in Rs.)	TDS (in Rs.)	TDS (%)	Remarks
19-10-2019	23,56,54,961	70,69,649	3.00	Lower deduction certificate no 1AF0519EDL dated 22-05-2019
31-03-2020	30,00,00,000	45,00,000	1.50	Lower deduction certificate no 1AA1019AFS dated 30-09-2019
31-03-2020	2,39,34,298	23,93,42,984	10.00	Tax deducted at rate prescribed u/s 194A
	77,49,97,945	3,55,03,947		

Basis the above facts, the Appellant filed TDS statements. On processing of the TDS statements u/s 200A, the learned Assessing Officer held that there was short deduction of TDS to the extent of Rs. 1,64,95,846/- and levied interest u/s 201(1A) amounting to Rs.21,44,454/- The learned Assessing

Officer arrived at this conclusion by considering that in respect of the interest credited on 19-10-2019, TDS should have been deducted @10% instead of 3% since the revised certificate issued on 29-09-2019 had withdrawn the limit of Rs 30 Crores as given in the original certificate no. 1AF0519EDL dated 22-05-2019. In other words, the learned Assessing Officer considered the second certificate to have a retrospective effect from 01-04-2019.”

4. The Id. Appellate authority had confirmed the said adjustment of short deduction of TDS after observing as under:-

“Here the fact of the matter is that the depositor M/s. Vodafone Idea Ltd had given a lower deduction certificate dated 22nd May 2019 for deducting tax @3% upto Rs 30 crores interest income. On 19th Oct 2019 Vodafone Idea Ltd. pre closed the deposit and it was paid and interest of Rs. 23,06,54,961/- on which the appellant bank deducted TDS @ 3% in accordance with the provisions of section 194A of the Income Tax Act and as per lower deduction certificate issued to the depositor i.e. Vodafone Idea Ltd. Subsequently Vodafone Idea Ltd has produced one more lower deduction certificate on 22nd Oct 2019 as per which the limit in respect of original certificate was made as zero. Therefore, based on this lower deduction certificate the appellant had to deduct TDS @10% instead of 3% because the revised certificate issued on 29 Sep 2019 had withdrawn the limit of Rs.30 crores as given in original certificate No 1AF0519EDL dated 22nd May 2019. Since the limit of Rs.30 Crores was withdrawn by the revised certificate any TDS made @3% on the Amount upto 30 Crores as per original lower deduction certificate has to be revised/rectified because after the revised Lower Deduction certificate dated 22/10/2019 original lower deduction certificate ceased to exist and merged with revised certificate. Accordingly, any TDS made in accordance with original lower deduction certificate has to be revised as per section 194A and revised lower

deduction certificate. In this case of appellant short deduction of TDS due to revised lower deduction certificate come to Rs. 1,64,95,846 and interest U/s. 200A(1A) on that calculated at Rs. 21,44,454/-. All such details or available on record and accordingly the AO is very much empowered to amend any intimation or deemed intimation under sub section 1 of 143 and under sub section of 200A with a view to rectify any mistake apparent from the record in accordance with the provisions of section 154(1). Moreover, as per section 154(2)(a) of the Act the AO can make such amendment on its own.

Further, these mistakes are very much apparent from the record as as per revised lower deduction certificate appellant was to deduct TDS on payment @10% instead of @3%. Therefore, by way of not deducting TDS @10% the appellant did the mistake of short deduction of TDS to the extent of Rs. 1,64,95,846/- which was rectified by the TDS CPC in its order. The said issue is based on facts and apparent from the record and not debatable as claimed by the appellant. Further, on going through the intimation it is noticed that the communication reference No. is very much available on the intimation which is TDS/1920/26Q/D/100040757671. Therefore the claim of appellant that the intimation was issued without DIN is baseless and hence liable to be rejected.

In view of the discussion made above, the adjustment made by the TDS CPC towards short deduction of TDS of Rs.1,64,95,846/- is confirmed. Further, the interest levied u/s. 201 (1A) of Rs.21,44,454/- is also confirmed as the same is consequential in nature and mandatory. The all grounds of appeal are dismissed accordingly.”

5. After hearing both the parties on perusal of material placed on record, we find that one of the main contentions of the ld. counsel for the assessee before us is that, the A.O. did not give any opportunity while carrying out such a rectification and without even going the facts. Further, he submitted that any amendment to TDS

provision has to be considered as prospective and once based on subsequent amendment, no TDS liability fastened for the earlier year especially in a situation where the assessee company was not even aware of the subsequent certificate acted based on the original certificate. Apart from that, he has also submitted the depositor has offered the interest income to tax and has given the CA certificate in form 26A which has been enclosed before us and therefore As per the first proviso to section 201(1), no demand can be confirmed if the recipient has paid the tax on the income and produced a certificate in this regard. Since in this case, it has been confirmed by the depositor that they have included the interest received by the Bank as Other Income and offered to tax and a certificate u/s 201 is also given, no tax demand can be confirmed u/s 201. Therefore, the demand of Rs 1,64,95,846/-be deleted.

6. As noted above, here in this case the assessee deducted TDS on the interest based on certificate produced by VIL u/s. 197 that TDS should deducted @ 3% upto interest 30 crore. Based on certificate assessee has deducted TDS of Rs. 70,09,649/- on interest of Rs. 23.54 crores. However, later depositor produced another certificate u/s. 197 on 22-10-2019 though it was dated 30-09-2019 wherein the limit of earlier certificate was modified to Rs. 0/- while the rate of TDS remained at 3% and the validity period was 25-05-2019 to 29-09-2019. Thereafter, a new limit of Rs. 30 crores was set up with much lower TDS of 1.50% for the period 30-08-2019 to 31-03-2020. Accordingly at year end, assessee company deducted TDS @ 1.50%

on interest upto Rs. 30 crores. The summary of interest paid on interest has already been incorporated above. Now, the A.O. while processing the TDS statement u/s. 200A held that there was short deduction of TDS to the extent of Rs. 1,64,95,846/- and levied u/s. 200A amounting to Rs. 22,44,454/-. According to him, interest credited on 19-10-2019 TDS certificate should have been @ 10% instead of 3%.

7. We are of the opinion that, first of all, AO should have given opportunity to the assessee before carrying out rectification u/s. 154, so as to explain the various certificates which were issued by VIL to the assessee company for lower deduction of TDS. Accordingly, the matter is restored back to the file of AO to consider this lower deduction of TDS certificates and give opportunity to the assessee to explain the case. Apart from that, it has also been brought on record that the depositor VIL has offered the interest income to tax for which CA certificate in form 26A has been filed. In view of first proviso to 201(1A), no demand can be confirmed if the recipient has paid the tax on the income and produced the certificate. In this regard also, the AO should also verify the certificate and if it found that depositor has offered this income to tax, then no demand should be enforced. Accordingly, with the above directions, the matter is restored back to the file of the A.O. and due opportunity of hearing be given to the assessee as per law.

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

Order pronounced on 26th February, 2024

sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated: 26/02/2024

Copy of the Order forwarded to :

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

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai