

**IN THE INCOMETAX APPELLATETRIBUNAL
[DELHI BENCHES:"E" NEWDELHI]**

**BEFORE SHRI I. C. SUDHIR, JUDICIAL MEMBER AND
SHRI PRASHANTMAHARISHI, ACCOUNTANTMEMBER**

**I.T. Appeal No. 556/Del/2014
Assessment Year: 2010-11.**

**Asstt. Commissioner
of Income Tax,
Circle: 50 (1),
New Delhi.**

Vs

**M/s. Nokia Siemens Networks (P) Ltd.
1507, Corporate Towers, Level-15,
Nehru Place,
New Delhi - 110 019.**

PAN : AACCN3871 F

AND

**I.T. Appeal No. 5366/Del/2015
Assessment Year: 2010-11.**

**M/s. Nokia Siemens Networks (P) Ltd.
1507, Corporate Towers, Level- 15,
Nehru Place,
New Delhi - 110 019.**

Vs

**Asstt. Commissioner
of Income Tax,
Circle: 50 (1),
New Delhi.**

PAN: AACCN3871 F

(Appellants)

(Respondents)

Assessee by : Shri Salil Kapoor, Adv.,
Department by : Shri Rajesh Kumar, Sr.D.R.
Date of Hearing : 31.05.2017
Date of Pronouncement: 31.05.2017

ORDER

PER I. C. SUDHIR, J.M. :

These are cross appeals. The Revenue has questioned the first appellate order whereby the Id. CIT (Appeals) has decided the issue of delay in payments of TDS in favor of the assessee. The assessee on the other hand has questioned the first appellate order in upholding the levy of interest on late deposit of tax deducted at source amounting to Rs. 4,21,459/- under section 201(1) read with section 201(IA) of the Act.

2. After considering the arguments advanced by the parties, we find that the dispute is confined to the issue as to what would be the date of remitting the e-tax payment i.e. the date when it was remitted / debited on 7.10.2009 or the date 8.10.2009 when the challan was issued. With assistance to the page No. 49 and others of the paper book, the Id. AR submitted that undisputedly the amount of TDS was debited from the bank account of the assessee on the due date i.e. 7.10.2009 and the delay in deposit of such tax by a day was on account of system and connectivity issues at the bankers' end, which were beyond the control of the assessee.

3. The Id. Sr. DR, on the other hand, placed reliance on the assessment order with this submission that the Id. CIT (A) has erred in accepting the arguments of the assessee that in case of payments by cheque the date of payment should be taken as date of presentation of the cheque to the bank.

4. On having gone through the material available on record, we find that undisputedly the amount of TDS was debited from the bank account of the assessee on the due date i.e. 7.10.2009 and the delay in deposit of such tax by a day was on account of system and connectivity issues at the bankers' end, which was beyond the control of the assessee. The Id. CIT (A) was thus not justified in holding the levy of interest on the alleged late deposit of tax deducted at source under section 201(1) read with section 201(IA) of the Act. He was, however, justified in deciding the issue of delay in payment of TDS in favor of the assessee questioned by the Revenue in view of the decision of Hon'ble Supreme Court in the case of CIT Vs. Ogale Glass Works 251 ITR 529 (SC). The facts of the present case as discussed above nevertheless different as in the present

case the amount of TDS was debited from the bank account of the assessee on the due date .instead of payment by cheque. We hold accordingly. In result, the, grounds of the appeal preferred by the Revenue are' dismissed and those preferred by the assessee are allowed.

5. In result, appeal preferred by the Revenue is dismissed and that filed by the assessee is allowed.

6. The order is pronounced in the Open Court on 31.05.2017.

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

(I. C. SUDHIR)
JUDICIAL MEMBER

Dated: the 31st May, 2017

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Copy of the Order forwarded to:

- 1. Appellant;**
- 2. Respondent**
- 3. CIT;**
- 4. CIT(Appeals);**
- 5. DR, ITAT,NO.**

BY ORDER.

ASSISTANT REGISTRAR