

## **TDS pertaining to previous years deducted on income accrued in current year claimed in Current Year should not be denied**

### **FACT OF THE CASE**

1. The assessee M/s. Omega Simulation Co. Ltd, for the assessment year 2014-15 filed its return of income admitting taxable income of Rs.3,01,43,990/- mainly consisting of profits from business operation at Rs.2,75,05,990/-. The facts are that the assessee company, up to 31.03.2014 since 2007, has exported software to the extent of Rs. 12,55,06,206/- and payment have also been received in full. The assessee admitted the profit arising out of above exported software in the income tax returns for the assessment years 2008-09 to 2014-15 and paid taxes accordingly.
2. The Omega Simulation Co. Ltd., has paid withholding taxes under the tax laws of Japan to the extent of Rs.1,22,50,673/- for the financial years 2007-08 to 2013-14 and gave tax credit certificate to the assessee. The assessee received these tax credit certificates in the financial year 2013-14, hence same were claimed credit in this year, as these were not taken credit in the earlier years. It was also explained that on receipt of tax credit certificates in the financial year 2013-14, the assessee admitted the same as business income and claimed tax credit u/s.90 of the Act, for whole of the amount of Rs.1,22,50,673/- in the return of income filed.
3. The AO during the course of assessment proceedings asked the assessee to explain

- why credit of taxes pertaining to earlier assessment years should not be denied ?

The assessee explained that Omega Simulation Co. Ltd., Japan has paid the withholding taxes during the financial year 2013-14, though it pertains to earlier years and gave tax credit certificates only during financial year 2013-14. The assessee on receiving the tax credit certificates fully accounted for the amounts and claimed the same in assessment year 2014-15. The assessee explained that since the entire amount of TDS admitted as income in this assessment year only and paid taxes accordingly.

But the AO was not convinced and accordingly he held that tax credit of only tax paid in Japan pertaining to the assessment during assessment year 2014-15 can be allowed to the extent of Rs. 31,18,928/- and denied the claim of tax credit of Rs. 91,31,745/-. Aggrieved, assessee preferred appeal before the CIT(A).

### **DECISION OF THE CASE**

1. The CIT(A) noted that the assessee is entitled to credit for withholding tax as per the provisions of section 90 & 91 of the Act and the relevant provision under the DTAA between India and Japan. The CIT(A) also noted that the assessee is entitled to credit for withholding tax as per CBDT notification dated 27.06.2017. Hence, he directed the AO to allow entire credit for withholding tax received in the financial year 2013-14 relevant to this assessment year 2014-15 amounting to Rs. 1,22,50,573/-.

Decision of Tribunal:

2. The certificate of tax credit issued by Omega Simulation Co. Ltd., Japan which proves that taxes were deducted only during the financial year 2013-14 under DTAA of Indo-Japan. Both the parties below have recorded concurrent findings that the assessee company has not made any claim for credit towards the above-stated withholding tax in earlier assessment years prior to the relevant assessment year 2014-15. We noted that the income has accrued in the financial year 2013-14 relevant to the assessment year 2014-15. Hence CIT(A) has rightly allowed the claim u/s.199 of the Act and there is no infirmity in the order of CIT(A).