IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	30.01.2025
Pronounced On	09.05.2025

Coram:
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25807 of 2022
and W.M.P.Nos.24863 & 24864 of 2022

M/s.Extreme Networks India Private Limited,
Rep. by its Director Mr.Sudhakar Raman,
8th Floor Temple Steps, No.184 187.
Anna Salai, Saidapet, Chennai – 600 015.

...Petitioner

Versus

Deputy Commissioner of Income Tax,
Corporate Circle 1(1), Chennai,
121, M.G.Road, Nungambakkam,
Chennai – 600 034.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records on the file of the Respondent and quash the impugned order in DIN & Order No.ITBA/AST/S/143(3)/2022-23/1044833080(1) dated 19.08.2022 passed by the Respondent under Section 143(3) r.w.s 144 C(13) of the Act.

For Petitioner : Ms.N.V.Lakshmi

For Respondent : Mr.B.Ramana Kumar, Senior Standing Counsel

ORDER

In this writ petition, the Petitioner has challenged the impugned Assessment Order dated 19.08.2022 passed by the Respondent. The impugned order was preceded by a proceedings dated 10.06.2022 of the Dispute Resolution Panel-2 and a Draft Assessment Order dated 20.09.2021 passed by the Faceless Authority.

2. The learned counsel for the Petitioner submitted that the proceedings dated 10.06.2022 of the Dispute Resolution Panel-2 was received by the Petitioner on 22.06.2022 from ITBA portal. The contention of the Petitioner is that the proceedings issued by the Dispute Resolution Panel-2 on 10.06.2022 would have been received by the Respondent Assessing Officer also on the very same day and therefore, the impugned Assessment Order dated 09.08.2022 which has been passed by the Respondent was beyond the period of limitation prescribed under Section 144C(13) of the Income Tax Act, 1961 (hereinafer referred to as 'IT Act').

2.1. The learned counsel for the Petitioner drew the attention of this Court to the information gathered by the Petitioner under the provisions of Right to Information Act, 2005. The Proceedings dated 11.09.2023 of the Assistant Commissioner of Income Tax (HQ) & Secretary, Dispute Resolution Panel – 2, Bengaluru to the Petitioner's RTI Application dated 30.08.2023 reads as under:

Sl.No.	***Information Called for***	***Response***
(a)	*What is the procedure for communicating DRP order to the AO, i.e., is the document served electronically or is the document required to be served physically on the NeAC or AO?*	*DRP orders/directions are being sent to the NFAC through ITBA in electronic mode only. If the draft order has been passed by the AO and not by NFAC, orders/directions being sent to the AO through ITBA and also, through DAK.*
(b)	*In the instant case, whether the DRP order was issued to the AO or NeAC?*	*In the case of the applicant company the DRP order/direction was issued to the NFAC.*
(c)	***If it was electronically served on the NeAC, when was the order sent by the DRP to NeAC?***	***It was uploaded on ITBA on 22.06.2022.***
(d)	*If it was electronically served on the AO, when was the order sent by the DRP to AO?*	*NA*
(e)	*When was the order received by the NeAC?*	*This Information we don't have.*
(f)	***When was the order received by AO?***	***NA***

2.2. The learned counsel for the Petitioner further submitted that the issue involved herein is no longer *res integra* and is covered by the Division Bench of this Court in ***Commissioner of Income Tax Vs. M/s.Ramco Cements Limited*** *(T.C.A.No.192 of 2024 dated 19.12.2024)*, wherein, a reference has been made to the Advisory issued by the ITBA Team which manages the Income Tax portal.

2.3. It is submitted that taking note of the aforesaid Advisory in Paragraph No.26 of the decision in ***Commissioner of Income Tax Vs. M/s.Ramco Cements Limited*** *(T.C.A.No.192 of 2024 dated 19.12.2024)*. The Division Bench of this Court has categorically stated that the Assessment Order passed in the said case was clearly contrary to the limitation prescribed under Section 144C (13) of the IT Act, within one month from the end of the month in which the directions of the DRP was received by the Assessing Officer viz., Faceless Assessing Officer therein.

2.4. The learned counsel for the Petitioner drew the attention of this Court to the decision in ***Taeyang Metal India Private Limited Vs. Deputy***

Commissioner of Income Tax *(2024) 160 taxmann.com 536 (Madras),* wherein, this Court has underscored the ratio correctly, however, has given a different conclusion on the facts while agreeing with the ratio in Paragraph No.6. For better appreciation, Paragraph No.6 of the said decision is reproduced hereunder:

> *"**6.** The interpretation of sub-section (13) of section 144C takes centre stage in the adjudication of this dispute. The said sub-section is set out below:*
>
> > *"(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 or section 153B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received."*
>
> *From the above provision, it is evident that the specified time limit is one month from the end of the month in which the directions are received. It is also clear that the time limit should be computed from the date of receipt of directions issued under sub-section (5) thereof. Sub-section (5) of section 144C deals with the issuance of directions by the Dispute Resolution Panel. The admitted position is that the Dispute Resolution Panel issued directions on June 16, 2022 and this fact is borne out by examining the proceedings of the Dispute Resolution Panel, which is contained at page Nos. 122 to 130 of the typed set of papers. The said proceedings also record that the copy of the directions of the Dispute Resolution Panel is being forwarded to the assessee, the Assessing Officer and the Transfer Pricing Officer. The Assessing Officer referred to therein is the National Faceless Assessment Centre, Delhi. The petitioner has placed on record a communication from the Secretary and Assistant Commissioner of Income-tax to the Dispute Resolution Panel. The said communication states that the Assessing Officer in the captioned case is the National Faceless Assessment Centre, Delhi and that a scanned copy of the proceedings was uploaded to the National Faceless Assessment Centre on 17.06.2022"*

2.5. The learned counsel for the Petitioner has placed reliance on the following decisions:

(i) Louis Dreyfus Company India Private Limited Vs. Deputy Commissioner of Income Tax *(2024) 159 taxmann.com 244 (Delhi)*

(ii) Taeyang Metal India Private Limited Vs. Deputy Commissioner of Income Tax *(2024) 160 taxmann.com 536 (Madras)*

(iii) Vodafone Idea Limited Vs. Central Processing Centre *(W.P.No.15398 of 2023 dated 08.11.2023)*

(iv) CIT Vs. Roca Bathroom Products Private Limited *445 ITR 537 (Madras)*

(v) Roca Bathroom Products Private Limited Vs. Dispute Resolution Panel *432 ITR 192 (Madras)*

(vi) Shelf Drilling Ron Tappmeyer Limited Vs. ACIT *457 ITR 161 (Bombay)*

3. On the other hand, the learned Senior Standing Counsel for the Respondent submitted that on 22.06.2022, the proceedings of the Dispute Resolution Panel-2 was sent to the National Faceless Assessment Centre, New Delhi. Thereafter, the National Faceless Assessing Unit transmitted the said proceedings to the Jurisdictional Assessing Officer only on 04.07.2022. Therefore, the limitation has to be computed from the date of receipt of the proceedings from the Dispute Resolution Panel-2 on

04.07.2022. Hence, the time for passing the final assessment order in terms of Section 144C(13) of the IT Act would have expired only on 31.08.2022. Since the Respondent Jurisdictional Assessing Officer has passed the Assessment Order on 19.08.2022, the Petitioner contended that the impugned order is beyond the period of limitation prescribed under Section 144C(13) of the IT Act and hence, the same has to be rejected.

3.1. The learned Senior Standing Counsel for the Respondent has produced a copy of the communication dated 25.11.2014 received from the Assistant Commissioner of Income Tax, Corporate Circle – 1(1), Chennai before this Court, wherein, particularly, in Paragraph No.4, it has been stated as under:

> *"04. Since the draft order was passed by the Faceless Assessment Unit, the DRP order mentioned the Assessing Officer as National Faceless Assessment Centre, Delhi. This DRP order was thus received by Faceless Assessment Unit which was not the Assessing Officer on the date of passing DRP order. This order was uploaded by the Faceless Assessing Unit to the JAO on 04.07.2022. Thus, the DRP order was received by the Assessing Officer only on 04.07.2022."*

3.2. Further, the learned Senior Standing Counsel for the Respondent submitted that whatever is uploaded in the National Faceless Assessment

Centre, New Delhi would not automatically stand communicated to the Assessng Officer. Only after the proceedings is communicated to the Transfer Pricing Officer, it is transmitted to the National Faceless Assessment Centre and that the National Faceless Assessing Unit has consolidated the aforesaid proceedings of the Dispute Resolution Panel-2 and transferred the same to the Jurisdictional Assessing Officer on 04.07.2022.

3.3. It is submitted that a plain reading of the Intimation Letter dated 22.06.2022 bearing DIN:ITBA/DRP/S/91/2022-23/1043516988(1) would reveal the hollowness of the Petitioner's claim that a different DIN pertaining to the DRP's order dated 10.06.2022 has been mentioned by the Transfer Pricing Officer in their order dated 30.06.2022. The DIN mentioned by the Transfer Pricing Officer vide its order dated 30.06.2022 pertaining to the DRP order u/s.144C(5) dated 10.06.2022 is ITBA/DRP/M/144C(5)/2022-23/1043516932(1) which is absolutely error free.

3.4. It is also submitted that as a Reply to Paragraph No.8, the Transfer Pricing Officer has accurately mentioned that he had received the order of the DRP u/s.144C(5) dated 10.06.2022 on 29.06.2022 bearing the DIN: ITBA/DRP/M/144C(5)/2022-23/1043516932(1). This again highlights the very fact which the Petitioner is very conveniently trying to obfuscate to their own advantage that there are certain inherent delays involved between communication among the various fingertips of the invisible hand of the Government.

3.5. It is submitted that in the last line of Paragraph No.8 of their Affidavit, the Petitioner has themselves stated that a copy of the Transfer Pricing Officer order dated 30.06.2022 was marked to (i) The Additional Commissioner of Income Tax, Transfer Pricing Range – 1, Chennai and (ii) The National Faceless Assessment Centre, Delhi. By incorporating this factual realty in their own Affidavit, the Petitioner has themselves made it as clear as pristine water that no information with regard to the completion of the Transfer Pricing Officer order dated 30.06.2022 had been sent to the Respondent Jurisdictional Assessing Officer.

3.6. It is submitted that this is a case where the Draft Assessment Order was passed by the Faceless Assessing Officer on 20.09.2021 which was the subject matter of a reference before the Dispute Resolution Panel by the Petitioner and that the Dispute Resolution Panel had passed an order on 10.06.2022.

3.7. It is further submitted that at that time, when the reference was made to Dispute Resolution Panel, the Petitioner was assessed by the Faceless Assessing Officer and that on 15.04.2022, only the assessment was transferred to the Respondent Jurisdictional Assessing Officer. Therefore, it is submitted that the directions of the Dispute Resolution Panel dated 10.06.2022 which was uploaded in the ITBA portal on 22.06.2022 was not communicated to the Respondent herein and that, at best, it could have been viewed by the Faceless Assessing Officer who was no longer the Assessing Officer of the Petitioner pursuant to the directions transferring the jurisdiction vide order dated 15.04.2022.

3.8. It is submitted that after the DRP's order dated 10.06.2022 was uploaded in the ITBA portal on 22.06.2022, the Faceless Assessing Officer of the Petitioner had collected the information from the Transfer Pricing Officer as transfer pricing adjustment issues were involved in the present case. After getting the feedback from the Transfer Pricing Officer, the Faceless Assessing Officer of the Petitioner had transmitted the DRP's order dated 10.06.2022 to the Respondent on 04.07.2022. Therefore, it is submitted that the Advisory of the ITBA team which has been captured in Paragraph No.26 of the decision in ***Commissioner of Income Tax Vs. M/s.Ramco Cements Limited*** *(T.C.A.No.192 of 2024 dated 19.12.2024)* itself answered that the Respondent would not have accessed the DRP's order dated 10.06.2022 which was uploaded in the ITBA portal on 22.06.2022.

3.9. The learned Senior Standing Counsel for the Respondent also submitted that the impugned Assessment Order dated 19.08.2022 was well within the time as the last date for passing the Assessment Order would have expired on 31.08.2022 i.e., one month from the end of the date of receipt of the DRP's order dated 10.06.2022. Therefore, this writ petition is liable to be dismissed.

4. I have considered the arguments advanced by the learned counsel on either side and I have also perused the materials available on record.

5. The point for consideration in this writ petition is whether the limitation has to be reckoned from 10.06.2022 (date on which the proceedings was issued by Dispute Resolution Panel-2) or from 22.06.2022 (date on which the said proceedings was sent to the National Faceless Assessment Centre, New Delhi and date on which the said proceedings was received by the Petitioner) or from 04.07.2022 (date on which the said proceedings was purportedly received by the Respondent).

6. It is pertinent to note that Section 13 of the Information Technology Act, 2000 deals with time and place of despatch and receipt of electronic record. It is relevant to extract Section 13(1) & (2) of the Information Technology Act, 2000. It is therefore extracted hereunder:

> ***"13. Time and place of despatch and receipt of electronic record.*** *—(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.*
>
> *(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:—*
>
> *(a) if the addressee has designated a computer resource for*

the purpose of receiving electronic records,—

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee."

7. In ***Commissioner of Income Tax Vs. M/s.Ramco Cements Limited*** *(T.C.A.No.192 of 2024 dated 19.12.2024),* the Division Bench of this Court has dealt with an Appeal against the order dated 20.10.2023 passed by the Income Tax Appellate Tribunal, 'D' Bench, Chennai in IT(TP) A.No.27/Chny/2022 for the Assessment Year 2017-18. In the said case, the Division Bench of this Court has passed the judgment in favour of the Assessee.

8. In Paragraph No.23 of the judgment, the Division Bench has extracted a Unmasking Report of the Faceless Assessing Officer. Paragraph No.23 of the judgment in ***Commissioner of Income Tax Vs. M/s.Ramco Cements Limited*** *(T.C.A.No.192 of 2024 dated 19.12.2024)* is usefully extracted hereunder:-

"23. For the first time in the proceedings, the FAO places on record the Unmasking Report (Report) as part of his affidavit dated 17.12.2024. Since the Report would be critical to determine the question before us, we extract the same in full:

1) Visibility of the DRP order in the Case History/Notings (CHN) of the pending assessment proceedings:

The DRP Order passed in ITBA software is reflected automatically in the pending assessment work-item (pending either with FAO or JAO), if DRP user initiates DRP proceedings in the ITBA DRP Module, by using the option of selecting the Draft Order u/s 144C in the screen. When DRP proceedings are initiated in this manner, this crates linkage with the Assessment Module and hence when DRP passes the order u/s 144C (5), such order is automatically reflected in the Case History Noting of AO (FAO or JAO) with whom the assessment work-item is pending.

Where, however, the DRP user initiates DRP proceedings by using the option of manually entering the details of the case in the screen, the DRP Order passed does not reflect automatically inside the case history noting of pending Assessment Proceedings work-item of the AO (whether Jurisdictional Assessing Officer of Faceless Assessing Officer ? JAO/FAO).

In the present case, as per inputs of the technical team, the DRP created the pendency by manually entering the details of the 144C order in the screen. The DRP Order u/s 144C (5) dated 24.01.2022 was uploaded by the DRP user in ITBA on 31-01-2022 with DIN : ITBA/DRP/M/144C(5)/2021-22/103924174(1). Further, since the DRP had created the DRP proceedings by manually entering the details of the case (and not by creating linkage with the assessment proceedings), the DRP order, when uploaded on 31.01.2022 in the DRP module, did not get automatically reflected in the Case History/Noting of the assessment proceedings.

2) Uploading of the DRP order using the functionality of DIN/PAN-AY:

There is functionality available in ITBA(?Uploading of document based on DIN/PAN-AY?). Documents uploaded by any ITBA user, using this functionality are shared in the Case History/ Notings of the selected proceedings, pending with JAO or FAO as the case may be. As per information available in the ITBA System, a document named ?the ramco cements AY 2017-18_202201311317.pdf? with the following description was uploaded by CIT (DRP-2) Bangalore ? 3 on 03.02.2022 using the said functionality.

A copy of the said document named ?the ramco cements AY 2017-18_202201311317.pdf? {which is the DRP order u/s 144C(5) dated 24.01.2022} is attached herewith. Since the document was uploaded using *the said functionality on 03.02.2022, it became available in the case History/Notings of the assessment proceedings on 03.02.2022.*

3) A Step by Step document explaining the process of DRP Proceedings is attached which is also available in ITBA Help Guide under the folder named DRP Proceedings (see-below pasted screenshot)

4) Besides, a copy of ITBA communication regarding ?Visibility of orders passed by DRPs to other ITBA users? which provides guidance w.r.t. the above matter to ITBA users is also attached for information and necessary further action.

It is further submitted that this office can only provide inputs regarding the workflows in ITBA software and information in respect of any proceedings as available in ITBA system. The administrative/legal aspects vest with the authorities concerned.

Regards,

Pritpal Singh

ADIT (ITBA)-5

O/o CIT (ITBA)

Directorate of Income Tax (Systems)"

9. A reading of the above Unmasking Report of the Faceless Assessing Officer indicates that the DRP's order passed under Section 144C (5) of the IT Act is automatically reflected in the Case History/Noting of the Assessing Officer (Faceless Assessing Officer or Jurisdictional Assessing Officer) with whom the assessment work-item is pending. It also indicates that where the DRP user initiates DRP proceedings by using the option of manually entering the details of the case in the screen, the DRP's order passed does not reflect automatically inside the case history noting of pending Assessment Proceedings work-item of the AO (Faceless Assessing Officer or Jurisdictional Assessing Officer). It further indicates that in the

aforesaid case, as per inputs of the technical team, the DRP created the pendency by manually entering the details of the 144C order in the screen.

10. Paragraph No.2 of the Unmasking Report of the Faceless Assessing Officer deals with the uploading of the DRP's order in ITBA Portal, wherein, it has been stated that there is functionality available in ITBA ("Uploading of document based on DIN/PAN-AY"). Documents uploaded by any ITBA user, using this functionality are shared in the Case History/Notings of the selected proceedings, pending with JAO or FAO as the case may be.

11. Thus, it is evident that the directions of the DRP will be directly communicated to the assessee/applicant. The Transfer Pricing Officer (TPO) or Faceless Assessing Officer (FAO) or Jurisdictional Assessing Officer (JAO) depending upon a module that is chosen/adopted at the time of initiation of proceedings before the DRP. If the DRP proceedings are initiated in the ITBA DRP Module, the DRP's order is uploaded on the portal and it will stand directly communicated to the Faceless Assessing Officer (FAO) or Jurisdictional Assessing Officer (JAO).

12. If the DRP proceedings are initiated by using the option of manually entering the details of the case in the screen, the DRP's order will not get reflected automatically in the Case History Noting of pending assessment proceedings work-item of the Assessing Officer (Faceless Assessing Officer (FAO) or Jurisdictional Assessing Officer (JAO)).

13. In the affidavit filed in support of this writ petition, the Petitioner has not stated as to which Module was opted by the Petitioner while initiating proceedings before the DRP.

14. The information obtained by Petitioner from the Assistant Commissioner of Income Tax (HQ) & Secretary, Dispute Resolution Panel – 2, Bengaluru vide Proceedings dated 11.09.2023 also indicates that the DRP's orders/directions are being sent to the National Faceless Assessment Centre through ITBA in electronic mode only. It further clarifies that if the Draft order has been passed by the Assessing Officer and not by the National Faceless Assessment Centre, orders/directions are being set to the Assessing Officer through ITBA and also, through DAK.

15. There is no dispute that the DRP's proceedings dated 10.06.2022 was uploaded in the ITBA portal on 22.06.2022. If as per Section 144C(13) of the IT Act, the limitation for passing the Assessment Order would be 30 days from the end of the month in which the directions of the DRP was received. If the date of communication of the DRP's proceedings is taken as 22.06.2022, the last date for passing the impugned Assessment Order would have expired on 30.07.2022.

16. On the other hand, if the date of communication of the DRP's proceedings from the National Faceless Assessment Centre by the Respondent Jurisdictional Assessing Officer is taken as 04.07.2022 as stated by the Respondent, the last date for passing the impugned Assessment Order would have expired on 31.08.2022 and since the final Assessment Order has been passed on 19.08.2022, it would be in time.

17. The information that has been obtained by Petitioner from the Assistant Commissioner of Income Tax (HQ) & Secretary, Dispute Resolution Panel – 2, Bengaluru vide Proceedings dated 11.09.2023 clearly

indicates that in the case of Petitioner herein, the DRP's proceedings was issued to the National Faceless Assessment Centre. It has also been clarified that in response to Question at S.No.(d), the Assistant Commissioner of Income Tax (HQ) Dispute Resolution Panel has categorically stated that the situation contemplated in Question at S.No.(d) was not applicable, implying the order was not communicated directly to the Respondent Jurisdictional Assessing Officer.

18. Similarly, in response to Question at S.No.(f) also, the answer is not Applicable. Thus, the date of communication of the DRP's proceedings dated 10.06.2022 to the Respondent Jurisdictional Assessing Officer on 22.06.2022 is an impossibility.

19. On 22.06.2022, the DRP's proceedings dated 10.06.2022 was communicated to the National Faceless Assessment Centre. Only thereafter, the National Faceless Assessment Centre has transmitted the said DRP's proceedings to the Respondent Jurisdictional Assessing Officer on 04.07.2022. Therefore, there is no merits in the challenge to the impugned

Assessing Officer on the ground of limitation prescribed under Section 144C (13) of the IT Act.

20. For the foregoing reasons, this Writ Petition is dismissed. However, liberty is granted to the Petitioner to challenge the impugned Assessment Order dated 19.08.2022 before the Appellate Authority, within a period of 30 days from the date of receipt of a copy of this order, failing which, it is open to the Respondent to proceed against the Petitioner to recover the tax in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

09.05.2025

mrr

Index : Yes

Neutral Citation: Yes

Speaking Order

To

Deputy Commissioner of Income Tax,
Corporate Circle 1(1), Chennai,
121, M.G.Road, Nungambakkam,
Chennai – 600 034.

C.SARAVANAN, J.

mrr

W.P.No.25807 of 2022

09.05.2025