

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

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.2952/Mum/2024  
(Assessment Year :2012-13)**

CRISIL LIMITED (Successor in interest of erstwhile CRISIL Risk and Infrastructure Solutions Limited Crisil House, Central Avenue Hiranandani Business Park, Powai Mumbai-400 076	Vs.	The Assistant Commissioner of Income Tax-15(1)(2), Mumbai
<b>PAN/GIR No.AAACT3151E (Crisil Limited) AABCC4655M (Crisil Risk and Infrastructure Solutions Limited</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Gajendra Golcha
Revenue by	Shri Mahesh Pamnani
<b>Date of Hearing</b>	<b>07/01/2025</b>
<b>Date of Pronouncement</b>	<b>09/01/2025</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 31/03/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s. 143(3) r.w.s. 254 for the A.Y.2012-13.

2. In various grounds of appeal assessee has challenged disallowance of Rs.1,07,51,004/- u/s. 40(a)(ia) which pertains to reimbursement of expenses made to Crisil Limited on account of non-deduction of tax at source.

3. The brief facts are that, in this case original assessment was made u/s.143(3) vide order dated 13/03/2015, wherein, the addition of Rs. 1,07,51,004/- was made u/s.40(a)(ia) of the Act for non-deduction of tax at source for payments made to Crisil Ltd., which was in the nature of reimbursement of expenses.

4. In the first appeal ld. CIT (A) vide his order dated 18/10/2016, deleted the said disallowance and decided the issue in favour of the assessee. Aggrieved by the said order, Revenue preferred an appeal before the Tribunal and the Tribunal vide order dated 12/02/2019 restored the matter to the file of the ld. AO for verification of the assessee's claim following the decision of the Hon'ble Tribunal in assessee's own case for A.Y.2008-09. In the set aside proceedings assessee in response to the notice dated 28/05/2019, filed various replies and in sum and substance, the submissions of the assessee were as under:-

a. The reimbursement of expenses were towards common expenses such as rent, electricity, repairs and maintenance, postage, printing and stationery, staff welfare, telephone, internet charges, etc. and did not contain any mark up on cost. Therefore, no tax is deductible at source on such payments.

b. Since Crisil Limited had considered such receipts in its total income, paid the tax due thereon and furnished the return of income, the Appellant shall not be deemed to be an assessee in default under section 201 of the Act. As a result, the disallowance for non- deduction of tax under section 40(a)(ia) of the Act will not be tenable.

5. The ld. AO, however without considering any submissions made by the assessee and without giving any opportunity of hearing, the ld. AO confirmed the disallowance of Rs.74,57,621/- however deleted the addition / disallowance of Rs.32,93,383/- which was as per the direction of the Tribunal was towards reimbursement of expenditure wherein, no TDS provision would apply.

6. The ld. CIT (A) despite the fact that ld. AO was passing order giving effect to the ITAT order which was set aside to him after making observations and addition of Rs.32,93,383/- was directed to be deleted because it related to expenses where no TDS provision was applicable, he not only upheld the addition made by the AO but also further enhanced it by making the disallowance of Rs.32,93,383/- without providing any opportunity or notice of hearing to the assessee. He held that even if it is a reimbursement to a parent company, TDS is deductible and disallowance has to be made. The ld. CIT (A) has not even considered that assessee has filed Form 26A before the ld. AO that the Crisil Limited has already shown it as income wherever the payment related pertain to income and therefore, in

terms of proviso to Section 201, no disallowance u/s.40(a)(ia) can be made. Ld. CIT (A) has not even elaborated as to how certain expenditure incurred for the purpose of business false in the category of payment in nature of income.

6. We have heard both the parties, perused the relevant finding given in the impugned order as well as material referred to before us. First of all from the perusal of the break-up of Rs.1,07,00,000/-, it is seen that the disallowance has been made in the following three categories:-

Sr. No.	Particulars	Amounts (INR)
i	Reimbursement towards expenditure, where even if the Appellant had directly incurred such an expenditure, the provisions of tax deduction at source ('TDS') would not apply	32,93,383
ii	Service tax component with respect to reimbursement of expenditure	10,03,947
iii	Balance reimbursement of expenditure	64,53,674
	Total	1,07,51,004

7. The details of expenditure of Rs.32,93,383/- are as under:-

<p>Details of Reimbursements towards expenditure, where even if the assessee would have had directly incurred such as expenditure, the provisions of TDS would not apply</p>
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Bank Charges	84,720
Books & Periodicals	58,823
Conveyance	2,36,326
Electricity Expenses	7,75,842
Gift	2,205
Inland Travel	84,743
Staff Medical Insurance	30,573
Postage & Mailing Expenses	2,41,249
Rates & Taxes	3,800
Registration/ Listing Fees	7,232
Staff Training Expenses	7,60,607
Staff Welfare Exp	17,484
Staff Welfare Expense Office	2,74,904
Stipend	2,12,672
Telephone Charges	4,95,967
Transport Allowance	3,200
Vehicle Expenses	3,036
Total	32,93,383

8. Perusal of these expenditures it can be seen that, on none of the payments, the provision of TDS would apply because they are

directly incurred for the purpose of business. Nowhere, any such expenses entail provision for deduction of TDS under the Act, therefore, no disallowance can be made with respect to expenditure of Rs.32,93,383/- which has been reimbursed by the assessee to Crisil Limited.

9. In so far as service tax component with respect to reimbursement of expenditure of Rs.10,03,947/-, there is a CBDT Circular No.1 of 2024 dated 13/01/2014 wherein, it has been stated that no taxes are required to be deducted on the service tax component. The relevant extract of the Circular reads as under:-

*"In exercise of the powers conferred under section 119 of the Act, the Board has decided that wherever in terms of the agreement/contract between the payer and the payee, the service tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid/payable without including such service tax component."*

10. Thus, no TDS is required to be deducted on the service tax component and the same is deleted.

11. Coming to the balance reimbursement of expenditure of Rs.64,53,674/-, it is seen from the records that these are reimbursement of expenses towards common expenses such as rent, electricity, repairs and maintenance, postage, printing and stationery, staff welfare, telephone, internet charges, etc. and did not contain any mark up on cost. *Prima facie*, no tax is deductible at source on most of the payments. At the most TDS is

deductible on these payments/ expenses relating to rent expenses of Rs.13,38,133/- and salary expenses of Rs. 23,18,598/-, however it has been stated that, *firstly*, it is reimbursement of expenses; and *secondly*, Crisil Ltd., has considered such receipts in its total income and has paid the tax due thereof and furnished the return of income. For this purpose, copy of certification of Chartered Accountant in Form 26A confirming that Crisil Limited has considered such receipts in its total income, paid the tax thereon and furnished the return of income, then no disallowance can be made u/s. 40(a)(ia), the copy of Form 26A has been placed in the paper book before us at page 11-15. We find that this Form 26A was also filed before the ld. CIT(A) alongwith the submission dated 30/10/2019. Once Form 26A has been filed and Chartered Accountant has confirmed that M/s. Crisil Limited has considered the said receipts in total income and has paid the tax thereof and furnished the return of income, then no disallowance u/s.40(a)(ia) can be made in view of the *proviso* to Section 201. Accordingly, the entire disallowances confirmed by the ld .CIT(A) is deleted.

**12. In the result, appeal of the assessee is allowed.**

Order pronounced on 9<sup>th</sup> January,2025.

**Sd/-**  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai; Dated 09/01/2025  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

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

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**