

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 817/Chny/2020
निर्धारण वर्ष / Assessment Year: 2017-18

M/s. N.C. Rajagopal & Co.,
22, V. Krishnaswamy Avenue,
Luz Church Road, Mylapore,
Chennai – 600 004.

[PAN: AAFFN-0572-A]

(अपीलार्थी/Appellant)

Deputy Commissioner of
v. Income Tax,
CPC,
Bengaluru – 560 500.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. I. Dinesh, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. T.M. Sugunthamala, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 10.10.2022

घोषणा की तारीख/Date of Pronouncement

: 14.10.2022

आदेश / O R D E R

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), Chennai-2, dated 14.09.2020 and pertains to assessment year 2017-18.

2. The brief facts of the case are that the assessee has filed its return of income for the AY 2017-18 on 07.10.2017

admitting a total income of Rs. 2,94,52,927/-. The return filed by the assessee has been processed u/s. 143(1) of the Income Tax, 1961 (herein after referred to as "the Act") and determined total income of Rs. 2,97,66,591/- after allowing TDS credit for Rs. 33,35,055/-, as against TDS claimed of Rs. 45,59,855/-. The assessee challenged the assessment order passed by the AO u/s. 143(1) of the Act before the Tribunal and the ITAT vide its order dated 09.03.2022 in ITA No. 817/Chny/2020 disposed of appeal filed by the assessee, however not adjudicated ground nos. 3.1 to 3.4 of grounds of appeal taken by the assessee challenging short credit allowed for TDS. The assessee has filed a miscellaneous petition u/s. 254(2) of the Act, and the Tribunal vide its order dated 30.06.2022 in MA No. 14/Chny/2022 recalled the order of the Tribunal dated 09.03.2022 *qua* ground nos. 3.1 to 3.4. Therefore, it is relevant to reproduce ground nos. 3.1 to 3.4 of assessee's appeal for the sake of convenience.

"3.1 The CIT(A) erred in upholding the short credit for TDS without adverting to the detailed submissions in the form of statement showing TDS credit from A.Ys.201415 to A.Y.2017-18.

3.2 The CIT(A) erred in observing that only TDS mentioned in Form 26AS alone would be allowed credit. This exhibits his ignorance; more particularly the provisions of Secs. 199 and 200 of the IT Act.

3.3 The CIT(A) failed to note even the ROI asks for details like this: (8) Amount out of (6) or (7) being claimed this year (only if corresponding income is being offered for tax this year)

3.4 *The CIT(A) failed to appreciate that the appellant follows cash system of accounting and credit for TDS can be claimed only in the year in which there is actual receipt of fees."*

3. The Ld. Counsel for the assessee at the time of hearing referring to return of income filed by the assessee for the AY 2017-18 submitted that the assessee has claimed credit for TDS at Rs. 45,59,855/- which includes unclaimed TDS pertains to earlier AYs. However the AO has allowed TDS credit as per Form 26AS without appreciating the fact that as per the provisions of section 199 & 200 of the Act, credit for TDS should be allowed when the income pertains to TDS has been offered to tax. Since, the assessee has offered to tax income relating to TDS credit on the basis of cash system of accounting, has rightly claimed credit for TDS and said particulars has been furnished in ITR-5 for the relevant AY. The AO without appreciating the fact rejected claim of the assessee.

4. The Ld. DR on the other hand supporting the order of the Id. CIT(A) submitted that as per the amended Form ITR-5, it is for the assessee to carry forward unclaimed TDS to subsequent financial years and in case the assessee does not carry forward TDS, then the CPC will allow credit for TDS as

per Form 26AS. Therefore, there is no error in the order passed by the CPC in denying credit for TDS pertains to earlier years. The Id. DR also submitted that if at all the assessee has furnished relevant details and also offered relevant income to tax for the impugned assessment year, then a direction may be given to the Assessing Officer to verify the claim of the assessee and allow TDS as per law.

5. We have heard both the parties, perused the material available on record and gone through orders of the authorities below. The assessee has claimed credit for TDS amounting to Rs. 45,59,855/-, whereas DCIT, CPC has allowed TDS credit for Rs. 33,35,055/-. We find that the assessee has claimed credit for TDS pertains to earlier financial years, because income relating to said TDS has been offered to tax for the impugned assessment years on the basis of cash system of accounting. The assessee had also furnished necessary details of TDS brought forward from earlier financial years in Form ITR-5 filed for impugned assessment year. As per the provisions of section 199 & 200 of the Act, credit for TDS should be allowed when the assessee has offered income relating to said TDS. The assessee claims that income relating

to said TDS has been offered to tax for the impugned assessment year. If, the claim of the assessee is correct then the credit for TDS should be allowed on the basis of claim of the assessee including TDS brought forward from earlier financial years. The fact needs to be verified. Therefore, we set aside the issue to the file of the AO and direct the Assessing Officer to verify the claim of the assessee and in case the AO finds that income relating to said TDS has been offered to tax for the impugned assessment year, then the credit for TDS also needs to be allowed as claimed by the assessee.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 14th October, 2022 at Chennai.

Sd/-
(वी दुर्गा राव)
(V. DURGA RAO)
न्यायिकसदस्य/Judicial Member

Sd/-
(जी. मंजुनाथ)
(G. MANJUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,
दिनांक/Dated: 14th October, 2022

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF