IN THE INCOME TAX APPELLATE TRIBUNAL,
JODHPUR BENCH, "DB" BENCH, JODHPUR

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
&
SHRI T. R. SENTHIL KUMAR, JUDICIAL MEMBER

ITA No. 230/JODH/2026
(Assessment Year:2024-25)

Shri Venktesh Ayurvedic Aushdhalaya Sita Ram Bag, Near Railway Station Didwana, Nagpur Rajasthan, M/s Mahendra Gargieya & Associates Advocates & Tax Consultants 537-538, 5th Floor, Mahima's Trinity, Near Jyoti Rao Phule College, New Sanganer Road, Jaipur	Vs.	Income Tax Officer Ward (E) Jodhpur
स्थायीलेखासं./जीआइआरसं./PAN/GIR No:AAATS3705Q		
Appellant	..	Respondent

Appellant by :	Sh. Devang Gargieya, Adv.
Respondent by :	Ms. Nidhi Nair, Addl. CIT-Sr. DR (Thru V.C.)

Date of Hearing	18.08.2026
Date of Pronouncement	25.08.2026

<u>O R D E R</u>

Per Annapurna Gupta, AM:-

The present appeal has been filed by the assessee against the order passed by the Office of the Commissioner of Income Tax, Appeal Addl/JCIT(A)-01, Nashik(hereinafter referred to as "Ld. CIT(A)"), dated 16.01.2026 under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. The grounds of appeal raised by the assessee read as under:-

> *1. The intimation order dated 09.01.2025 passed u/s 143(1) by AO/CPC is bad in law and on facts of the case, for want of jurisdiction and for various other reasons and hence the same may kindly be quashed or in any case, the impugned addition/s kindly be deleted full.*
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> *2. Rs. 2,47,910/-: The Id. AO/CPC as wellas ld. CIT(A) also erred in law as well as facts of the case in confirming in allowing the credit of Prepaid Taxes/TDS of Rs.9,93,220/- only instead of Rs. 12,41,130/-. The short credit SO given by the ld. AO (CPC Bangalore) and confirming by CIT(A) is totally contrary to the provisions of law and fact on the record and hence the same kindly be allowed in full.*
>
> *3. Under these circumstances and facts of the case, the ld. AO (CPC Bangalore) seriously erred in law as well as on the fact of the case in denying the TDS claimed under ITR, even though admittedly, the appellant Trust was entitled; merely on surmises and conjecture and without appreciating the facts correctly.*
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> *4. The appellant prays your honour to add, amend or alter any of the grounds of the appeal on or before the date of hearing.*

3. The solitary grievance of the assessee is the denial of grant of TDS credit to the tune of Rs.2,47,910/- made by the CPC while processing the return of income u/s 143(1) of the Act. The same was denied by the CPC noting a "mismatch between the tax credits claimed and allowed" as reflected in the Form No. 26AS containing the entire detail of TDS deducted on the income of the assessee. The detail of the

said mismatch is reflected in Table B of the intimation made u/s. 143(1) of the Act at page 14 as under:-

DIN : CPC/2425/A7/522056011

Mismatch between Tax Credits claimed and allowed.

Table B : Details of Unmatched TDS/ TCS

Sl.No.	TAN of the Deductor / PAN of the Buyer	Year of Deduction of TDS/ TCS	TDS Credit relating to PAN	Amount of TDS/TCS Claimed	Amount of TDS/TCS Matched	Amount of TDS/TCS Mismatch	Reason for Mismatch
1	DELP20880G	2023	AAATS3705Q	1,69,860	0	1,69,860	Form 26AS does not contain amount of TDS/TCS with respect to the TAN mentioned in schedule TDS 1/ TDS 2/ TCS
2	DELF02497F	2023	AAATS3705Q	35,450	0	35,450	Form 26AS does not contain amount of TDS/TCS with respect to the TAN mentioned in schedule TDS 1/ TDS 2/ TCS
3	MUMH20429D	2023	AAATS3705Q	42,600	0	42,600	Form 26AS does not contain amount of TDS/TCS with respect to the TAN mentioned in schedule TDS 1/ TDS 2/ TCS

4. The assessee had carried the matter in appeal before the Ld. CIT(A) contending that the disallowance of TDS credit by the CPC related to the interest income which was earned by the assessee from securities purchased. It was contended that the assessee was a trust and had purchased securities. The assessee trust not being permitted as per law to open a demat account in its own name and therefore the securities were mandatorily held in the name of the trustee. The TDS accordingly has been deducted in the PAN of the trustee and thus not reflected in the 26AS of the assessee. He contended that interest income was earned on investments made from the funds of the trust which had been returned to tax by the assessee trust which in turn had claimed credit of TDS thereon, though not reflected in its 26AS. That therefore the mismatch of TDS noted by CPC and disallowed.

5. It was contended that the entire investment was made by the trust through RTGS payments from its bank account, the interest income had

been reflected in the return of income of the assessee trust and therefore, the corresponding trust credit rightfully belonged to the trust. Evidence in this regard was filed by the assessee. The Ld. CIT(A) however contended that Section 199 read with Rule 37BA(2) of the Income Tax Rules, 1962 mandated that where the whole or any part of the income on which tax had been deducted at source is assessable in the hands of a person other than the deductee, the credit for the TDS shall be given to the other person and not to the deductee provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of other person in the information relating to the deduction of tax referred to in sub-Rule(1) of Income Tax Rules. The Ld. CIT(A) held that since the assessee had failed to file the requisite declaration as provided by Rule 37BA, the assessee was not entitled to credit of TDS. He noted the assessee’s contention that the filing of declaration under Rule 37BA of the Income Tax Rules was only procedural and not mandatory was incorrect. Accordingly, he upheld the denial of credit of TDS to the assessee by the CPC of Rs.2,47,910/-.

6. Before us, ld. Counsel for the assessee contended that the Ld. CIT(A) has not controverted the fact that the interest income to which the TDS pertained was returned to tax by the assessee; that the interest incomepertained to investment made by the assessee trust though in the name of the trustee since it could not have opened a demat account in its own name. But he contended that the Ld. CIT(A) denied the credit of TDS solely for the reason that no declaration was filed by the

deductee trustee that the interest income did not pertain to it, but to the assessee trust as required by Rule 37BA(2) of the Income Tax Rules, 1962. Ld. Counsel for the assessee pointed out that the ITAT in several decisions has held the requirement of filing the said declaration to be procedural. He drew our attention to the decision of the ITAT Pune Benches in the case of **Anil Ratanlal Bohora Vs. ACIT (2023) 148 taxmann.com 15 (Pune)** wherein he pointed out that at para 6 and 7 of the order, the ITAT had categorically held the requirement of filing declaration as per Rule 37BA(2) of the Income Tax Rules to be purely procedural when the fact that the income on which TDS was deducted was established to not be of the deductee but of the other person. It was pointed out that the ITAT had held that the person who had reflected the income and had established the same to be his own was entitled to credit of TDS in such circumstances. Our attention was drawn to para 6 and 7 of the order of the ITAT holding as under:-

> …………
> *6. A careful perusal of sub-rule (2) indicates that where the income, on which tax has been deducted at source, is assessable in the hands of a person other than deductee, then credit for the proportionate tax deducted atsource shall be given to such other person and not the deductee. The proviso to sub-rule (2) provides for deducteefiling a declaration with the deductor giving particulars of the other person to whom credit is to be given. On receipt of such declaration, the deductor shall issue certificate for the deduction of tax at source in the name of such other person. The crux of section 199 read with rule 37BA(2) is that if the income, on which tax has been deducted at source, is chargeable to tax in the hands of the recipient, then credit for such tax will be allowed to such recipient. If, however, the income is fully or partly chargeable to tax in the hands of some other person because of the operation of any provision, like section 64 in the extant case, the proportionate credit for tax deducted at source should be allowed to such other person who is chargeable to tax in respect of such income, notwithstanding the fact that he is not the recipient of income. It is with a view to regularise the allowing of credit for tax deducted at source to the person other than recipient of income, that the proviso to rule 37BA(2) has been enshrined necessitating the furnishing of particulars of such other*

person by the recipient for enabling the deductor to issue TDS certificate in the name of the other person. The proviso to rule 37BA(2) is just a procedural aspect of giving effect to the mandate of section 199 for allowing credit to the other person in whose hands the income is chargeable to tax The entire purpose of this exercise of allowing credit to the other person is to ensure that the benefit of tax deducted at source is availed once and that too, by the right person, who is chargeable to tax in respect of such income It is just to streamline the procedure for giving effect to this intent and rule out the possibility of taking any inappropriate credit for the amount of tax deducted at source, firstly, by the recipient who is not chargeable to tax and secondly, by the person who is rightly chargeable to tax in respect of such income, that the procedural provision has been put in place in rule 37BA(2) One needs to draw a line of distinction between substantive provision [section 199 read with rule 37BA(2) without proviso) and the procedural provision [proviso to rule 37BA(2)]. Non-compliance of a procedural provision, which is otherwise directory in nature, cannot disturb the writ of a substantive provision

7. Adverting to the facts of the extant case, it is seen that out of total interest income credited to assessee's wife as per Form No. 26AS amounting to Rs. 39.26 lakh, she included interest from SBI in her total income to the extent of Rs. 1,84,212. The assessee included the remaining interest of Rs. 37.42 lakh in his income because of the applicability of section 64 of the Act. The assesse and his wife claimed proportionate tax credit, which totals up to Rs 2,94,474. This deciphers that the total interest income received by the assessee's wife got taxed partly in her own assessment and partly in the assessment of her husband, the assessee in question, as per the mandate of section 64. The benefit of TDS has also been claimed accordingly Merely because the assessee's wife did not furnish declaration to the bank in terms of proviso to rule 37BA(2), the amount of tax deducted at source, which is otherwise with the Department, cannot be allowed to remain with it eternally without allowing any corresponding credit to the person who has been subjected to tax in respect of such income As the substantive provision of section 199 talks of granting credit for tax deducted at source to the other person, who is lawfully taxable in respect of such income, we are satisfied that the matching credit for tax deducted at source must also be allowed to him. In view of the fact that the tax of Rs. 2,80,656/-has actually been deducted at source on the interest income of Rs. 37.42 lakh, we hold that the credit for such TDS should be allowed to the assesses, who has been subjected to tax in respect of such income. This ground is allowed.

……….

7. Our attention was also drawn to the ITAT Cochin Bench decision in the case of **Sh. Prem Mukundan Vs. Income Tax Officer Ward-2(2), Kochi ITA No. 790/Coch/2022** wherein following the decision of Hon’ble High Court of Andhra Pradesh in the case of **Commissioner of Income Tax Vs. Bhooratnam & Co. I.T.T. Appeals Nos. 117 and**

222 of 2012 November 23, 2012, it was held that the requirement of filing Form 37BA was a mere procedural requirement as long as the beneficial owner of the income was sufficiently established and due credit of TDS was to be given to the said beneficial owner. Our attention was drawn to the ITAT in this regard at para 7 to 13 as under:-

> *……..*
> *7. We have heard the rival contentions and perused the material on record.The solitary issue raised in this appeal is whether the assessee is entitled to getTDS credit of his deceased wife (admittedly income of the same was offered totax in assessee's return of income). The relevant statutory provision, namelySection 199 of the Act and Rule 37BA of the I.T. Rules, 1962 reads as follows:*
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> *"Credit for tax deducted.*
>
> *199. (1) Any deduction made in accordance with the foregoing provisionsof this Chapter and paid to the Central Government shall be treated as apayment of tax on behalf of the person from whose income the deductionwas made, or of the owner of the security, or of the depositor or of theowner of property or of the unit-holder, or of the shareholder, as the casemay be.*
>
> *(2) Any sum referred to in sub-section (1A) of section 192 and paid to theCentral Government shall be treated as the tax paid on behalf of theperson in respect of whose income such payment of (ax has been made.*
>
> *(3) The Board may, for the purposes of giving credit in respect of taxdeducted or tax paid in terms of the provisions of this Chapter, make suchrules as may be necessary, including the rules for the purposes of, givingcredit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may begiven"*
>
> *8. Rule 37BA of I.T. Rules 1962 is reproduced below for ready reference: -*
>
> *"[Credit for tax deducted at source for the purposes of section 199.*
>
> *37BA. (1) Credit for tax deducted at source and paid to the CentralGovernment in accordance with the provisions of Chapter XVII, shall begiven to the person to whom payment has been made or credit has beengiven (hereinafter referred to as deductee) on the basis of informationrelating to deduction of tax furnished by the deductor to the income-tax authority or the person authorised by such authority.*

(2) [(i) Where under any provisions of the Act, the whole or any part of theincome on which tax has been deducted at source is assessable in thehands of a person other than the deductee, credit for the whole or any partof the tax deducted at source, as the case may be, shall be given to theother person and not to the deductee :

Provided that the deductee files a declaration with the deductor and thedeductor reports the tax deduction in the name of the other person in theinformation relating to deduction of tax referred to in sub-rule (1)

(ii) The declaration filed by the deductee under clause (i) shall containthe. name, address, permanent account number of the person to whomcredit is to be given, payment or credit in relation to which credit is to begiven and reasons for giving credit to such person.

(iii) The deductor shall issue the certificate for deduction of tax at sourcein the name of the person in whose name credit is shown in theinformation relating to deduction of tax referred to in sub-rule (1) andshall keep the declaration in his safe custody."

9. In this regard, it is claimed that the assessee has filed the Declaration under Rule 37BA to claim the credit in his name. However thesame would not be in conformity with Rule 37BA of the I.T. Rules, since the deductee has to file declaration and she had expired. At this juncture,we place reliance on the order of the Ahmedabad Bench of the Tribunal inthe case of Mirant Navinbhai Parikh V The DCIT Circle International TaxVadodara, ITAT Ahmedabad, [ITA No. 178/Ahd/2021] (order dated22,04,2022). The Ahmedabad Bench of the Tribunal on facts which aresimilar to the present case had held as follows: -
"7. We have given our thoughtful consideration and perused the materialavailable on record. In the instant case, we find that when the FixedDeposit of income of Rs.13,42,190/- which was the income of the deceased father of the assessee, but offered by the assessee in his individual's handsbeing the sole legal heir of deceased father, the Revenue cannot deny thebenefit of TDS made in the hands of the assessee's father.

7.4. Ongoing through this judgement, it is crystal clear that there areprovisions of under the IT Act: namely, section 199 of the IT Act, 1961 andRule 37BA of the IT Rules, 1962 and proper mechanism is also providedunder the Act and Rules. Thus, applying the ratio of the above judgement also, the assessee is entitled to get credit on TDS of Rs. 1,34,220/- whichwas deducted in the PAN of his late father. However, the entire income is offered by the assessee in his individual capacity as sole legal heir. Apart from that, the assessee also paid self-assessment tax of Rs.2,70,000/- onthe above income. Thus, the grounds of appeal raised by the assessee; namely, Ground Nos.2 & 3 are allowed.

8. -As far as ground Nos.4 & 4.1. of appeal are concerned, the same arecharging of interest u/s.234B & 234C of the Act, which are consequentialin nature and, hence, no *separate adjudication is required. Thus, thesegrounds of appeal raised by the assessee are allowed.In the-present ca&eyyuur-Appettarrt's wife passed away and due to thesame your appeflafrt enjoyed the interest received from the deceased wife'sdeposit and dutifully declared the same to tax. And hence, yow-appeWa-ntis eligible to get the/credit of his deceased wife's TDS as he has declaredthe income ining to the said TDS."*

10. ***The Hon' High Court of Andhra Pradesh in the case of Commissioner of Income Tax vs. Bhooratnam& Co. I.T.T. Appeal Nos. 117 & 222 OF 2012 November, 23, 2012, it was held as follows: -***

"17. In our view, the CIT (Appeals) and the Tribunal have rightly held that the assesses is entitled to the credit of the TDS mentioned in the TDS certificates issued by the contractor, whether the said certificate is issued in the name of the Joint Venture or in the name of a Director of the assessee company They have considered the terms of the agreement dated 12-03-2003 among the parties to the joint venture and held that credit for TDS certificates cannot be denied to the assessee while assessing the contract receipts mentioned in the said certificates as income of the assessee The income shown in the TDS certificates has either to be taxed in the hands of the joint venture or in the hands of the individual co-joint venturer. As the joint venture has not filed return of income and claimed credit for TDS certificates and the TDS certificates have not been doubted, credit has to be granted to the TDS mentioned therein for the assessee

18. Rule 37BA is a procedural provision dealing with the manner of giving credit for tax deducted at source for the purposes of section 199. It therefore applies to pending proceedings. As observed in State of Madras v. Lateef Hamid & Co AIR 1972 SC 1781, where a new procedure is prescribed by law. it governs all pending cases.

19. In Tikaram & Sons v. Commissioner of Sales Tax AIR 1968 SC 1286 itwas held that alterations in the form of procedure are alwaysretrospective, unless there is some good reason or other why they shouldnot be. The amendment to Rule 37 BA mentioned above which has beenintroduced by the Income Tax (8th amendment) Rules, 2011 notified vide Notification No. 57/2011 dated 24-10-2011, being procedural in nature,would have retrospective effect and has to be given effect to.

*20****. The Revenue cannot be allowed to retain tax deducted at source without credit being available to anybody. If credit of tax is not allowed to the assessee, and the joint venture has not filed a return of income, then credit of the TDS cannot be taken by anybody. This is not the spirit and intention of law.***

21. Therefore, in our view, the Assessing Officer erred in denying thebenefit of the TDS mentioned in the TDS certificates filed by the assesseeon the ground that the TDS certificate is issued in the name of the jointventure or a Director and not the assessee."

11. The Hon'ble High Court of Delhi, Court on Its Own Motion v. Commissioner of Income-tax W.P.(C) No. 2659 OF 2012 AUGUST 31, 2012 held as follows: -

"The second aspect relates to credit of TDS by the taxpayers even when tax is not been credited or paid to the government We do not think that it will be appropriate to address this question in a PIL. We have entertained this PIL not to decide individual claims but in view of the general problems faced by the tax payersspecially small tax payers/individuals regarding issue of refunds, which are denied on the basis of wrong or bogus demands or incorrect record maintenance and the problem faced by them in getting full credit of the tax. which is deducted from their income and paid to the Revenue. The problem is apparent, real and enormous It has escalated because of Centralized Computerization and problems associated with the incorrect and wrong data which is uploaded by both the deductors or payees and the Assessing Officers The issue is of general governance, failure of administration, fairness and arbitrariness. The magnitude of the problem and the number of tax payers adversely affected thereby is apparent from the counter affidavit, wherein it is admitted that 43% and 39% of the returns in Delhi zone for the Financial Year 2010-11 and 2011-12 respectively were defective. Substantial number of these defaults relate to mismatch of TDS details and the tax payers have been denied benefit of TDS claimed by them. For the Financial Year 2010-11, the approximate demand created in Delhi Zone because of the defective returns wasRs.3000 crores, which stands reduced to Rs.1900 crores after the tax payers approached the Assessing Officers for corrections. Every attempt possible has to be made to redress the grievance of the tax payers. The tax payers should not be made to run around, make repeated visits to deductor or the Assessing Officer. Rejection of TDS, which has been deducted and paid, hurts the assessee and puts him to needless inconvenience. harassment and costs. It gives bad name to the Revenue."

12. The Bangalore Bench of the Tribunal in the case of Hotel Ashok Garden (supra) has held that though the liquor licence stands in the name of Shri Raju S. Shetty (partner of assessee firm) and the tax collection at source (TCS) was in the name of Raju S. Shetty, the assessee firm was entitled to the benefit of TCS. The relevant finding of the Bangalore Bench of the Tribunal reads as follows: -

"7. I have heard the rival submissions. Learned Counsel for the assessee brought to my notice the decision of the ITAT, Jaipur Bench, in the case of Jai Ambey Wines Vs. ACIT, order dated 11.01.2017. In the said order, identical issue with regard to claim of TCS in the hands of the partnership firm when the licence stands in the name of the partners came up for consideration. The Hon'ble ITAT, Jaipur Bench, after referring to the statutory provisions viz., sections 190, 199, 206C of the Act and Rule 37BA(2)(i) of the Income Tax Rules, 1962 (hereinafter called the Rules'), held that the assessee firm should be given benefit of credit for TCS made in the hands of the partner. The following are the relevant observations of the Tribunal:

"2.6 We have heard the rival contentions and perused the material available on record. In order to appreciate the arguments, it would be relevant to refer to the provisions of Section 190, Section 199, Section 206C and the Rule 37BA(2)(i) of Income tax Rules.

Section 190 reads as under:

"(1) Notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year, the tax on such income shall be payable by deduction or collection at source or by advance payment or by payment under sub-section (LA) of section 192, as the case may be, in accordance with the provisions of this Chapter.

(2) Nothing in this section shall prejudice the charge of tax on such income under the provisions of sub-section (1) of section 4."

Section 199 reads as under:

"(1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be

Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall he treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given."

Section 206C reads as under:

"(1) Every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

Sr. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic Liquor for human consumption	One per cent
(ii)	Tendu leaves	Five per cent
(iii)	Timber obtained under a forest lease	Two and half per cent
(iv)	Timber obtained by any mode other than under a forest lease	Two and one- half per cent
(v)	Any other forest produce not being timber or tendu leaves	Two and one-half per cent
(vi)	Scrap	One per cent
(vii)	Minerals, being coal or lignite or iron ore	One per cent

Provided that every person, being a, seller shall at the time, during the period beginning on the Ist day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Act, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.

Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing. in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.

The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.

(2) The power to recover tax by collection under sub-section (1) or sub-section (IC) or subsection (ID)] shall be without prejudice to any other mode of recovery."

Rule 37BA(2)(i) of Income tax Rules as amended, by the Income Tax (Eight amendment) Rules 2011 reads as under:

"Where under any provisions of the Act, the whole or any part of income on which tax has been deducted at source is assessable in the hands of a person other than the

deductee, credit for the whole or any part of tax deducted at source, as the case may, shall be given to the other person and not to the deductee

Provided that the deductee files a declaration with the deductor and deductor reports the tax deduction in the name of the other person in the information relating to deduction referred to in sub-rule (1)."

2.7 The essence of the above stated provisions and corresponding rules is that the tax deducted at source (TDS) is nothing but tax, and credit for TDS should go to the person in whose hands the income is rightfully and finally assessed to tax in accordance with law irrespective of the person in whose hands the TDS has been deducted and TDS certificate has been issued at first place. If we look at the provisions of section 206C read with section 190 of the Act, the nature of tax collection at source (TCS) is exactly identical to TDS and it is in the nature of tax on income which has been collected at source in respect of specified business and the nature of goods as specified in section 206C of the Act. In light of above, the credit for TCS should be given to the assessee which is finally and lawfully assessed to tax in respect of the corresponding income on which TCS has been collected. The fact that there are no specific rules which have been provided in the Income tax Rules in respect of credit of TCS in such situations on the lines of Rule 37BA, in our view, doesn't disentitle the assessee to claim credit of TCS in whose hands the income is finally assessed to tax. The reason for the same is that the nature of TCS is nothing but tax which has been statutorily recognised in the Income tax Act, and the Rules are enabling and procedural in nature and absence thereof cannot result in denial of credit of TCS. This issue also find supports from the decision of the Coordinate Bench in case of ACIT, Circle-2, Udaipur vs. Shri Krishnalal Meel & party (supra).

2.8 In the instant case, the ld. AR has submitted that the income has been brought to tax in the hands of the assessee firm and accordingly the credit for TCS should be granted to the assessee firm. In this regard, we find that there is no findings of fact by the AO in this regard and in A.Y. 2012-13 the Id. CIT(A) has stated that "the claim of the appellant that all the income of parmers of the firm has been include in the income of the uppellant is also not fully verifiable from the documents filed by the appellant."

2.9 In light of above discussions, we set aside the matter in both the years to the file of the AO with the dvections to verify whether the corresponding income in respect of which TCS has been claimed by the assessee firm has been brought to tax in the hands of the asesee firm or not. Where after due examination and verification, the AO find that the corresponding income has been brought to tax in the hands of the assessee firm, the AO is directed to allow credit for TCS in the hands of the assessee firm."

8. Learned DR, however, placed reliance on the decision of SMC Bench, Bengaluru, rendered in the case of Shri. Jayaprakasha Rai Vs. DCIT ITA No.681/Bang/2021, order dated 13.06.2022. I have perused the aforesaid decision and I find that the said decision *was a case of transfer of licence from one person to another where pending the formality of transfer of licence, the credit was claimed by transferee of the licence in respect of TCS made in the hands of the predecessor in interest of transferor of the licence. In the aforesaid decision, the Tribunal made a reference to the provision of section 206C(4) and Rule 37-1 of the Rules and came to the conclusion that credit should be given to TCS on the basis of the ultimate outcome before the Central Excise authorities regarding transfer of excise licence. The Tribunal also held in the aforesaid case that the AO can take necessary safeguards to ensure that the interest of the Revenue is not affected or prejudiced in any manner.*

9. It can thus be seen that the facts of the case cited by the learned DR are different. Nevertheless, the fact remains that the Tribunal in all these decisions took the view that credit for TCS should not be denied when there is in fact no double claim made for the same TCS by 2 different persons. As we have already observed in the present case, Raju S. Shetty the licencee has given Indemnity Bond before the AO clearly specifying that he has not claimed credit for TCS in his return of income. In such circumstances, 1 am of the view that the claim ought to have been allowed. In this regard, I may also mention that if the ultimate conclusion on an application under section 154 of the Act can only be one particular conclusion, then even if in reaching that conclusion, analysis has to be done then it can be said that the issue is debatable which cannot be done in proceedings under section 154 of the Act. I am of the view, thatthe conclusion in the present case can only be one viz., that one person alone is to claim credit for TCS and it is only the assessee who has claimed credit for TCS and not the licencee. In such circumstances, the application under section 154 of the Act ought to have been entertained by the Revenue.

10. In this regard, learned DR also made submission that the decision of the ITAT, Jaipur Bench, was in relation to provisions of Rule 37BA of the Rules which is applicable to TDS and not to TCS and it is only Rule 37-1 of the Rules which is applicable when credit for TCS is claimed. I am of the view that the very basis of the decision of the Jaipur Bench of ITAT in the case of Jai Ambey Wines (supra) is based on the facts that what is applicable for TDS should also be applicable for TCS and merely because there is no Rule identical to Rule 37BA(2)(i) of the Rules with reference to TCS provisions, it cannot be the basis for the Revenue to deny the legitimate claim for credit of TCS made by an assessee. For the reasons given above, I am of the view that the assessee should be given the benefit of credit for TCS. The AO is directed to give credit for TCS. Appeals of the assessee are accordingly allowed.

11. In the result, appeals of the assessee are allowed."

13. In the instant case the assessee's wife passed away and due to the same, assessee enjoyed the interest received from the deceased wife's deposit. The assessee dutifully declared the same to tax in his return of income. Hence, the assessee is eligible to get the credit of his deceased wife's TDS as he has declared the income pertaining to the said

TDS. In taking the above view, we place reliance on the judicial pronouncement cited supra.

8. Ld. DR though heavily supported the order of the Ld. CIT(A) ,was unable to controvert and distinguish the decisions of the ITAT as relied upon by the ld. Counsel for the assessee and noted above, to the effect that the requirement of filing declaration under Rule 37BA(2) was only procedural and the credit of TDS could not be denied for mere failure to comply with the procedural requirement, if the substantive condition of the beneficial owner of the income was clearly established and it was shown that the income was returned to tax by the said beneficial owner. That the beneficial owner in such circumstances was entitled to credit of TDS even if the declaration under Rule 37BA(2) was not filed.

9. In view of the above, we find that in the facts of the present case, the assessee admittedly having returned the interest income to tax, the credit for TDS deducted thereon could not have been denied merely because it was not reflected in the TDS return of the assessee in Form 26AS and for the reason that the assessee had not filed requisite form/declaration from the deductee in whose hands the TDS had been deducted, as prescribed by Rule 37AB(2) of the Rules, particularly when the substantive condition of the assessee having reflected the interest income in its hands was established as also the facts of TDS thereon being deducted in the hands of the trustee of the assessee trust. The issue, we find, is squarely covered in favour of the assessee by

various decisions of ITAT in the cases of Anil Ratanlal Bohora (Supra) and Shri Prem Mukundan (Supra).

10. The CPC/AO is therefore directed to grant credit of TDS of Rs.2,47,910/- to the assessee.

11. The grounds raised by the assessee are allowed in above terms.

12. In effect appeal of the assessee is **allowed**.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 25.08.2026

Sd/-	Sd/-
(T.R. Senthil Kumar)	(Annapurna Gupta)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Dated 25.08.2026
Mittali, Sr. PS
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

By Order,

Asst. Registrar
ITAT, Jodhpur