

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A(SMC)' BENCH, KOLKATA**

Before Shri P.M. Jagtap, Vice-President (KZ)

**I.T.A. No. 1656/KOL/2018
Assessment Year: 2014-2015**

M/s. Anuvarat Exports & Imports Private Limited,.....Appellant
4, Ho Chi Minh Sarani, 2nd Floor,
Suit No. 2F, Jeevan Deep,
Kolkata-700 071
[PAN: AACCA 5477 C]
-Vs.-

Income Tax Officer,.....Respondent
Ward-8(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:

Shri Rajesh Duggar, A.R, for the Appellant
Smt. Ranu Biswas, Addl. CIT, D.R., for the Respondent

Date of concluding the hearing : November 20, 2018
Date of pronouncing the order : November 20, 2018

ORDER

This appeal filed by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)-3, Kolkata dated 24.05.2018 and the solitary ground raised therein by the assessee reads as under:-

“For that in view of facts and circumstances, Id. CIT(Appeals)-3 passed the order not good in the eye of law since contravening the provisions of section 250(1), 250(4) and 250(6) of the Income Tax Act manifest from the observation recorded “therefore the Assessing Officer is hereby directed to allow the credit of said TDS if any after due verification”.

2. The assessee in the present case is a company, which filed its return of income for the year under consideration on 14.11.2013. The said return was processed by CPC, Bangalore under section 143(1) accepting the income as declared by the assessee. The credit for tax

deducted at source amounting to Rs.57,501/- as claimed by the assessee in the return of income, however, was not allowed and consequently a demand of Rs.62,710/- was raised against the assessee. The assessee moved an application under section 154 seeking rectification of mistake in the intimation issued under section 143(1) in not giving the credit on account of tax deducted at source and on rejection of the said application, he filed an appeal before the Id. CIT(Appeals). After considering the submissions made by the assessee before him, the Id. CIT(Appeals) decided the issue vide paragraph no. 3 of his appellate order dated 24.05.2018 as under:-

“The only issue in this case is short credit of TDS of Rs.57,501/-. The appellant has filed its return of income on 14.11.2013. The CPC Bangalore processed the return of income filed by the appellant and issued intimation u/s 143(1) dated 05.11.2015 determining the tax liability at Rs.62,710/-. The appellant has fixed deposit with Bank of Rs.5,74,997.33 and the TDS was deducted by Bank of Rs.57,501/-. The AR of the appellant has claimed that the sum of Rs.57,501/- is being reflected in Form 26AS of the appellant. The appellant therefore filed rectification application u/s 154 and again the AO has given NIL credit. No reasons have been given for rejection of the 154 application. Due credit for TDS must be given to the assessee, more so for the fact that the corresponding income has been brought to tax. Therefore, the Assessing Officer is hereby directed to allow the credit of said TDS, if any, after due verification. Therefore, this ground is hereby allowed for statistical purposes”.

Still aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

3. I have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that the assessee has been held to be entitled for the TDS credit by the Id. CIT(Appeals) vide his impugned order keeping in view especially the fact that the corresponding income has already been brought to tax in the hands of the assessee. He accordingly has also directed the Assessing Officer to allow

the credit of such TDS after due verification. Keeping in view this relief allowed by the Id. CIT(Appeals) to the assessee, the Id. Counsel for the assessee has been asked to explain what exactly is the grievance of the assessee. He has submitted that the Assessing Officer has refused to follow the direction of the Id. CIT(Appeals) given vide his impugned order on the ground that the Id. CIT(Appeals) has no power to remand the matter to the Assessing Officer. In my opinion, the direction given by the Id. CIT(Appeals) to the Assessing Officer to allow the credit of TDS after due verification does not amount to remanding the matter to the Assessing Officer and the Assessing Officer thus is not justified in not complying with the direction of the Id. CIT(Appeals). In any case, since this issue has been brought by the assessee by way of an appeal before the Tribunal, I direct the Assessing Officer to allow the credit of TDS to the assessee after necessary verification.

4. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on November 20, 2018.

**SD/-
(P.M. Jagtap)
Vice-President (KZ)**

Kolkata, the 20th day of November, 2018

- Copies to :*
- (1) ***M/s. Anuvrat Exports & Imports Private Limited,
4, Ho Chi Minh Sarani, 2nd Floor,
Suit No. 2F, Jeevan Deep,
Kolkata-700 071***
 - (2) ***Income Tax Officer,
Ward-8(1), Kolkata,
Aayakar Bhawan, P-7, Chowringhee Square,
Kolkata-700 069***
 - (3) ***Commissioner of Income Tax (Appeals)-3, Kolkata,***
 - (4) ***Commissioner of Income Tax-***
 - (5) ***The Departmental Representative***
 - (6) ***Guard File***

By order

***Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata***

Laha/Sr. P.S.