

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. N. S. Saini, Accountant Member

ITA No. 3367/Del/2018 : Asstt. Year : 2009-10

Pawan Kumar Agarwal, 192, C-9, Sector-7, Rohini, Delhi-110085	Vs	ACIT, Circle-72(1), New Delhi
Gupta Aggarwal Sharda & Jain, Chartered Accountants, D-178, Ground Floor, Ramprastha Colony, Ghaziabad-201011		
(APPELLANT)		(RESPONDENT)
PAN No. AAEP A1658G		

Assessee by : Sh. Manish Agarwal, CA

Revenue by : Sh. S. L. Anuragi, Sr. DR

Date of Hearing: 04.02.2019

Date of Pronouncement: 05.02.2019

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-21, New Delhi dated 13.03.2018.

2. The sole issue involved in this appeal is that the CIT(A) erred in not allowing credit for TDS of Rs.1,21,968/- which was deducted from the assessee but is not appearing in 26AS.

3. Before the CIT(A), the assessee filed order u/s 154 of the Act which was dated 09.08.2016 wherein TDS credit of Rs.2,35,063/- was given to the appellant. The CIT(A) observed that from submission of the appellant, it appears that deductor has mentioned wrong PAN in the TDS return and hence balance claim of Rs.1,21,968/- was not appearing in 26AS. This defect has to be rectified by the deductor. Unless, this is done, credit

of tax cannot be given to the correct deductee as credit might have gone to the wrong PAN holder in whose name this TDS has been shown by the deductor. Therefore, he held that there was no infirmity in the order passed u/s 154 of the Act in allowing credit for TDS against which PAN of the assessee has been shown by the deductor.

4. Before me, the AR of the assessee has filed copy of Form No. 26AS which is placed at page no. 25 of the paper book. The assessee has also filed copy of screen shot taken from Income Tax website and ITD system showing wrong PAN AAEP1658G mentioned in TDS return by employer not in existence placed at page nos. 26 & 27 of the paper book. He has also filed communication from employer placed at page nos. 28 to 33 of the paper book. The assessee has also filed copy of CBDT Instruction no. 275/29/2014-IT-(B) placed at page no. 60 of the paper book. From these documents, the assessee submitted that the AO may be directed to allow credit of balance amount of TDS of Rs.1,21,968/- to the assessee.

5. The Id. DR had no objection to restore the matter to the file of the AO for allowing the credit for TDS to the assessee after verification.

6. In the above facts and circumstances of the case, I restore the issue to the file of the AO for verification of TDS allowable to the assessee from the documents to be furnished by the assessee before him. If he is satisfied with the verification of the documents to be produced by the assessee then he shall allow credit for balance amount of TDS of Rs.1,21,968/- as claimed by the assessee. With these directions, the appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order Pronounced in the Open Court on 05/02/2019).

Sd/-
(N. S. Saini)
Accountant Member

Dated: 05/02/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR