

IN THE INCOME TAX APPELLATE TRIBUNAL "B"
(Virtual Court Hearing) BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rajesh Kumar, Accountant Member

I.T.A. No.399/Kol/2021
Assessment Year: 2018-19

Trinayani Realtors Pvt. Ltd.....Appellant
C/o M/s Salarpuria Jajodia & Co.,
7, C.R. Avenue, 3rd Floor,
Kolkata – 700072.
[PAN: AACCT4238N]

vs.

A.O., CPC.....Respondent

Appearances by:

Shri Siddharth Jhajharia & Sujoy Sen, AR, appeared on behalf of the appellant.
Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : February 23, 2022

Date of pronouncing the order : March 02, 2022

Hearing through Video Conferencing

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 27.09.2021 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). The assessee in this appeal has taken the following grounds of appeal:

"1. For that in view of the facts and in the circumstances, the Ld. CIT(A), NFAC was wholly unjustified in passing an ex-parte order and in view of the facts and in the circumstances the impugned order so passed may kindly be set aside in the interest of justice and fairness it may be held accordingly.

2. Without prejudice to Ground No. 1 above, the Ld. CIT(A), NFAC was wholly unjustified in dismissing such appeal on the ground that appeal against 154 order did not lie in the matter and in view of the facts and in the circumstances the order of Ld. CIT(A), NFAC is bad in law and it may be held accordingly.

3 Without prejudice to Grounds No. 1 & 2 above, the Ld. CIT(A), NFAC was wholly unjustified in not directing the AO, CPC to allow full and proper credit of TDS at Rs. 40,55,000/- as against the amount allowed of Rs.39,27,950/- especially in the light of the fact that the entire income corresponding to the claim of TDS so made has been considered in the computation of income for the relevant year and as such the appellant was fully entitled to credit of the whole of TDS within the meaning of sec. 199 read with sec 203 and 205 of the Act and hence it may be held accordingly.

4. That the appellant craves leave to add, alter, amend, amplify or modify any or all of the above grounds of appeal at or before the time of hearing of the appeal.”

2. The brief facts of the case are that the assessee is a private limited company. The return of income was filed on 23.10.2018 showing a total income of Rs.2,14,32,890/-. The assessee claimed the credit/adjustment of tax deducted at source (TDS) of Rs.40,55,000/- however, the Assessing Officer, allowed TDS of Rs.39,72,950/- only. The assessee filed rectification application u/s 154. The rectification application u/s 154 was rejected by the CPC, Bangalore on 05.05.2020.

3. Being aggrieved by the above order of the CPC/Assessing Officer, the assessee preferred appeal before the Id. CIT(A). However, the Id. CIT(A) dismissed the appeal of the assessee observing that non-grant of TDS credit was not a mistake apparent on record. He held that the said issue could not be looked into for rectification purposes and that the assessee could have filed an appeal against the intimation of assessment order passed u/s 143(1) of the Act.

Being aggrieved by the above order of the Id. CIT(A), the assessee has come in appeal before us.

4. We have heard the submissions of the Ld. representative of both the parties and gone through the records. We find in this case, the assessee is a victim of the errors of the system and apathy of the concerned Income Tax Authorities. In this case, the return filed by the assessee has been processed u/s 143(1) of the Act without any addition made by the CPC/Assessing Officer. The only grievance of the assessee was that while processing the return the Assessing Officer/CPC did not give full TDS credit as less credit has been given which could have been easily verified and rectified at the level of Assessing Officer/CPC. Since the Assessing Officer/CPC rejected the rectification application of the assessee moved u/s 154 of the Act, the assessee preferred appeal before the Id. CIT(A). However, the Id. CIT(A) also rejected the application of the assessee on flimsy grounds.

The assessee in this case has simply sought the rectification of mistake apparent on record and there was no issue involved for adjudication. The mistake was apparent on record and may have been rectified by going through the record i.e. Income Tax Return

and other documents attached with the return. There is no case of the Revenue that the TDS credit is otherwise not allowable to the assessee for any reason, whatsoever. The Ld. CIT(A), in this case, has miserably failed to exercise his appellate jurisdiction vested with him. In view of this, the impugned order of the Ld. CIT(A) is set aside and the Assessing Officer is directed to give the due TDS credits to the assessee after verification of the same.

5. In the result, the appeal of the assessee stands allowed.

Kolkata, the 2nd March, 2022.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated:02.03.2022.

RS

Copy of the order forwarded to:

1. Trinayani Realtors Pvt. Ltd
2. A.O., CPC
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches