

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

**BEFORE SHRI MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No.9/Kol/2022
Assessment Year: 2018-19**

PAN E MART PVT. LTD. C/o. 93A, Tiljala Road, Kolkata – 700046. PAN: AADCP 6710 A	Vs.	CPC, Bengaluru
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Rishav Patawari, AR
Respondent by : Shri Biswanath Das, ACIT

Date of Hearing : 18.05.2022

Date of Pronouncement : 06.06.2022

ORDER

PER SONJOY SARMA, JM:

The present appeal has been preferred by the assessee against the order dated 10.09.2021 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT'] 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 the Ld. CIT(A), NFAC erred in confirming the action of CPC of not allowing appellant's claim for TDS credit of Rs. 77.738/- for A.Y. 2018-19.*
- 2. For that the Ld. CIT(A) erred in confirming the action of CPC in disallowing the claim of TDS credit in spite of the fact that the corresponding income has been offered for taxation by the assessee and duly assessed by CPC.*
- 3. For that even otherwise, the Ld. CIT(A), NFAC did not ever provide the appellant any opportunity of personal hearing before passing the impugned appellate order u/s 250 of the IT Act, 1961.*
- 4. For that the order passed by Ld. CIT(A) is otherwise unjust and unfair.*
- 5. For that the appellant craves leave to add, alter or withdraw any ground/s of appeal on or before hearing of the appeal."*

2. Though the Registry has pointed out that the appeal is time barred, however, in view of the decision of the Hon'ble Supreme Court in the case of Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020, the period of filing appeal during the COVID-19 pandemic is to be excluded for the purpose of counting the limitation period. In view of this, the appeal is treated as filed within the limitation period.

3. The brief fact of the case is that the assessee-company filed its return of income declaring at Rs. 48,82,962/- and it was processed u/s 143(1) of the Income Tax Act, but did not allow the claim for TDS credit that the same is not appearing in Form 26AS of AY 2017-18. The assessee dissatisfied with the above order preferred an order before National Faceless Appeal Centre, Delhi. However, Ld. CIT(A) also dismissed the appeal of the assessee.

4. Aggrieved by the said order dated 10.09.2021, the assessee is in appeal before us.

5. At the time of hearing, the ld. counsel for the assessee submitted that the action of CPC in disallowing the claim of TDS credit in spite of the fact that the corresponding income has been offered for taxation by the assessee and duly assessed by CPC but ld. CIT(A) erred in disallowing the claim of TDS by confirming the action of CPC. Moreover, the ld. CIT(A), National Faceless Appeal Centre did not provide any opportunity of personal hearing before passing the impugned order. The ld. AR further submitted that the core issue in this appeal is the action of CPC by not allowing assessee's claim for TDS credit of Rs. 77,738/- in spite of the fact that corresponding income has been offered for taxation by the assessee and one more opportunity should be given and the issue raised in the instant appeal may be set aside to the file of ld. AO to decide the claim of assessee after proper hearing.

6. On the other hand, ld. DR relied on the order of ld. CIT(A) and AO.

7. We, therefore, under the given facts and circumstances of the case are of the considered view that since the assessee did not get any opportunity before the ld.

CIT(A) of hearing nor before the AO. We, therefore, in the interest of justice set aside the impugned order and remit it back to the file of AO for deciding the issues raised before us by way of speaking order. We also direct the assessee to remain vigilant receiving the notices of hearing and should not request for any adjournment, unless otherwise required for reasonable cause should file all necessary documents so as to facilitate the AO for passing such order. Needless to mention that the assessee should be given proper opportunity of being heard.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 06.06.2022.

**Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER**

**Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER**

Kolkata, Dated: 06.06.2022.
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Pan E Mart Pvt. Ltd.
2. The Respondent: CPC, Bengaluru.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata