

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA**  
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member ]

**I.T.A. No. 62/Kol/2022**  
**Assessment Year : 2010-11**

Baid Trade Fina Pvt. Ltd. (PAN: AABCB 1875 A)	Vs.	ITO, Ward-1(4), Kolkata
Appellant		Respondent

Date of Hearing	15.06.2022
Date of Pronouncement	13.07.2022
For the Appellant	Shri S.Jhajharia, A.R.
For the Respondent	Shri Nicholas Murmu, Addl. CIT

**ORDER**

**Per Shri Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Commissioner of Income Tax(Appeals)-NFAC, Delhi [hereinafter referred to as ‘Ld. CIT(A)’] dated 28.12.2021 for the assessment year 2010-11.

2. The assessee has raised following grounds of appeal against the order of Ld. CIT(A) out of which we are inclined to adjudicate the ground no. 4 raised by the assessee which is as under:

*4. Even otherwise and without prejudice to Grounds No. 1, 2 & 3 above, the Ld. CIT(A) was unjustified in affirming the AO’s action in disallowing the entire TDS claim of Rs. 79,028/- without assigning any reason for same though the same is duly appearing in Form 26AS and in view of the facts and in the circumstances the Ld. CIT(A) may kindly be directed to allow such credit accordingly.*

3. Facts in brief are that the assessee filed its return of income on 26.09.2010 claiming TDS of Rs. 79,028/- as per Form 26AS, however in the intimation/order dated 25.04.2011 u/s 143(1) of the Act, the assessee was not granted the credit of TDS without assigning any reasons therefor. The appeal of the assessee also

dismissed as barred by limitation by the Ld. CIT(A) reasoning that delay in filing the appeal could not be explained by the assessee.

4. After hearing the rival contentions and perusing the material on record, we find that the AO has not granted the credit of TDS of Rs. 79,028/- which was apparently and undisputedly to be given to the assessee as this amount is duly appearing in the form 26AS. The Ld. CIT(A) dismissed the appeal of the assessee on the ground of being late without deciding the issue on merits. We also note that a rectification petition moved by the assessee before the AO dated 20.1.2020 requesting the AO to grant the credit of TDS of Rs. 79,028/- is also pending before the AO. Considering the facts and circumstances in totality, we are of the considered view that the assessee is entitled to credit of TDS which was denied in the intimation u/s 143(1) of the Act. Accordingly we restore the issue to the file of the AO with the direction to verify and allow the same after affording a reasonable opportunity of hearing to the assessee.

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

Order is pronounced in the open court on 13<sup>th</sup> July, 2022

Sd/-  
(Sanjay Garg)  
Judicial Member

Sd/-  
(Rajesh Kumar)  
Accountant Member

Dated: 13<sup>th</sup> July, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Baid Trade Fina Pvt. Ltd., C/o, M/s Salarpuria Jajodia & Co. 7, C.R. Avenue, 3<sup>rd</sup> Floor, Kolkata-700072
2. Respondent – ITO, Ward- 1(4), Kolkata

3. The CIT(A)- NFAC, Delhi
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata