

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

**Before Dr. Manish Borad, Accountant Member
&
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 127/KOL/2023
Assessment Year: 2017-2018**

***Haldia Petrochemicals Limited,.....Appellant
Bengal Eco Intelligent Park,
Block-EM, Plot No. 3, Sector-V,
Salt Lake, Kolkata-700091
[PAN: AAGCB2001F]***

-Vs.-

***Deputy Commissioner of Income Tax,.....Respondent
Circle-2(3), Kolkata,
Aayakar Bhawan Poorva,
110, Shanti Pally,
E.M. Bypass, Kolkata-700107***

Appearances by:

*Shri Hiranmay Gongopadhyay and Shri Ajay Goggar,
A.R.,, appeared on behalf of the assessee
Shri Vijay Kumar, Addl. CIT, appeared on behalf of the
Revenue*

Date of concluding the hearing : April 10, 2023

Date of pronouncing the order : April 11, 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of assessee for assessment year 2017-18 is directed against the order of ld. Commissioner of Income Tax (Appeals), Kolkata-20 dated 19.12.2022, which is arising out of the order under

section 143(3) of the Act on 29.09.2021 framed by Id. ACIT, Central Circle-2(3), Kolkata.

2. The sole grievance raised by the assessee is that the Id. CIT(Appeals) erred in not granting the credit of tax deducted at source available in the erstwhile PAN of the amalgamating company.

3. We have heard the rival contentions and perused the relevant record placed before us. The facts in brief are that the appellant-assessee was formerly known as M/s. Bengal Cracker Complex Limited (PAN: AAGCB2001F) and the same was amalgamated with erstwhile Haldia Petrochemicals Limited (PAN: AAACH7360R) and the said amalgamation was effective from 01.03.2015 vide a Scheme of Amalgamation duly approved by the Hon'ble Calcutta High Court vide their order dated 21.01.2017. Post the amalgamation process, the erstwhile Haldia Petrochemicals Limited (PAN: AAACH7360R) merged with the assessee-company and the amalgamated company continued the business activity in the name of M/s. Haldia Petrochemicals Limited (PAN: AAGCB2001F). Now for A.Y. 2017-18, income tax was deducted at source under the PAN: AAACH7360R at Rs.3,17,23,096/- and the same was claimed against the tax liability of the assessee-company under the PAN: AAGCB2001F in the return of income filed for A.Y. 2017-18. However, while processing the return, the Id. Assessing Officer denied the claim

since the alleged TDS was not appearing in the 26AS under the PAN i.e. AAGCB2001F.

4. The assessee challenged this action of the ld. Assessing Officer before the ld. CIT(Appeals). He accepted the assessee's contention and restored the matter to the file of ld. Assessing Officer for carrying out necessary exercises and grant the tax credit observing as follows:-

"4.3. I have gone through the submission of the assessee and the AO. To the best of my understanding, in such matter initiative has to be taken by the assessee for migration of the TDS credit and thereafter AO has to complete the process. It appears that the assessee has already done its part and now it is the AO/department which has to complete the work of migration of the TDS credit from the old PAN to the PAN of the amalgamated company. AO has written one letter in this regard but he is directed to pursue this matter with more efforts so that the assessee gets full TDS credit. This ground is allowed for statistical purposes".

5. Though the ld. CIT(Appeals) has allowed the assessee's ground for statistical purposes but still the assessee has come in appeal before the Tribunal raising the very same issue. The only prayer of the ld. Counsel for the appellant-assessee is to direct the jurisdictional ld. Assessing Officer to provide the tax credit within a time frame so that the necessary action is taken and the issue is not be kept in abeyance.

6. Before us, the amount of TDS is not in dispute and only not allowing the credit has been challenged. Even though the ld. CIT(Appeals) has already directed the ld. Assessing Officer and the same seems to be in process, since the impugned order is dated 19.12.2022 and approximately only three & half months has passed since the issue is technical in nature

7. We also note that the order of the Hon'ble Jurisdictional High Court approving the amalgamation is 21.01.2017 and subsequent to that, assessee ought to have made necessary arrangements and should have informed the customers of both the erstwhile companies to deduct the tax under PAN: AAGCB2001F, but still some of the customers of the erstwhile Haldia Petrochemicals Limited have deposited TDS under the old PAN.

8. However, considering the fact that the claim of the assessee is valid and credit of the tax deducted at source has to be given to the assessee, we direct the ld. Assessing Officer to carry out the necessary verification process at the earliest and after being satisfied about TDS claim of the assessee to grant the credit within four months from the date of receiving this order and also direct the assessee not to delay the aforesaid proceedings by taking adjournment unless otherwise required for reasonable cause for filing of necessary details.

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

Order pronounced in the open Court on 11th April, 2023.

Sd/-

**(Sonjoy Sarma)
Judicial Member**

Kolkata, the 11th day of April, 2023

Sd/-

**(Manish Borad)
Accountant Member**

Copies to :(1) **Haldia Petrochemicals Limited,
Bengal Eco Intelligent Park,
Block-EM, Plot No. 3, Sector-V,
Salt Lake, Kolkata-700091**

(2) **Deputy Commissioner of Income Tax,
Circle-2(3), Kolkata,
Aayakar Bhawan Poorva,
110, Shanti Pally,
E.M. Bypass, Kolkata-700107**

(3) Commissioner of Income Tax (Appeals),
Kolkata-20;

4) Commissioner of Income Tax- ;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

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

Laha/Sr. P.S.