

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
631/Hyd/2022	2018-19	M/s. Country Club Hospitality & Holidays Limited, Hyderabad [PAN: AAACC8276B]	Assistant Commissioner of Income Tax, TDS Circle (TDS)-1(1), Hyderabad
632/Hyd/2022	2019-20		
633/Hyd/2022	2020-21		

निर्धारिती द्वारा/Assessee by: Shri P. Murali Mohan Rao, AR
राजस्व द्वारा/Revenue by: Shri KPRR Murthy, DR

सुनवाई की तारीख/Date of hearing: 26/04/2023
घोषणा की तारीख/Pronouncement on: 28/04/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order(s) passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Country Club Hospitality & Holidays Limited ("the assessee") for the assessment years 2018-19, 2019-20 & 2020-21, assessee preferred these appeals. For the sake of convenience, we dispose

of these appeals by this common order, taking the appeal for the assessment year 2018-19 as a lead case.

2. Briefly stated relevant facts are that the assessee is a company, engaged in the business of hospitality and tourism services. For the assessment year 2018-19, assessee filed its return of income declaring the total income at Rs. NIL. During the course of business, the assessee company made various payments, many of which are liable for TDS under various sections of chapter XVII-B of the Income Tax Act, 1961 ('the Act'). A survey under section 133A(2A) of the Act was conducted on 27/11/2019 to examine the adherence to TDS provisions. Learned Assessing Officer issued letters to the assessee on various dates, calling for books of accounts, trial balance, TDS ledgers and section-wise details of TDS made etc., for the financial year 2017-18 relating to assessment year 2018-19. The assessee furnished the updated information till 31/03/2018. After verifying the information submitted by the assessee, learned Assessing Officer passed an order under section 201(1) & 201(1A) of the Act, dated 04/01/2022, raising a demand of Rs. 60,75,570/-.

3. Aggrieved by such an action of the learned Assessing Officer, assessee preferred appeal before the learned CIT(A), and submitted that no opportunity of being heard was given before raising the demand, and as a matter of fact, there are certain unconsumed challans, which if considered leaves no scope for levy of any interest.

4. Learned CIT(A) considered this contention and recorded that there is no evidence that the assessee filed a correction statement of TDS, linking the unconsumed challan with the instances of TDS deductions or made any request to the learned Assessing Officer, linking the instances of TDS deduction with the unconsumed challan and upload the same to the portal. Learned CIT(A), however, held that consumption of unconsumed challans could only be discharging the liability created under section

201(1A) and does not have any role in the determination of interest. learned CIT(A) did not agree with the assessee and dismissed the appeal.

5. It is the submission of the learned AR before us that if the unconsumed challans are taken into account, there will not be any TDS deficiency and consequently, no question of interest would arise. Per contra, learned DR submitted that instead of filing this appeal, the assessee could have got the defect if any, rectified by filing petition under section 154 of the Act. In reply, learned AR submitted that because of the pendency of this appeal, the learned Assessing Officer is not entertaining the petitions under section 154 of the Act and if any direction is given, this fact is verifiable at the end of the learned Assessing Officer.

6. We have gone through the record in the light of the submissions made on either side. In view of the grievance of the assessee that if the learned Assessing Officer considers correction statement of TDS, linking the unconsumed challan with the instance of TDS deduction, there will not be any amount to carry the interest under section 201(1A) of the Act, rule of prudence dictates that such a fact must be verified before mulcting the assessee with the liability of interest. It is submitted that because of pendency of this appeal the learned Assessing Officer is not entertaining the application under section 154 of the Act.

7. In these circumstances, we deem it just and proper to set aside the impugned order and restore the matter to the file of the learned Assessing Officer for verification of the correction statement of TDS linking the unconsumed challan with the instances of TDS deduction, giving an opportunity to the assessee. Hence, we set aside the order of the learned CIT(A) and restore the issue to the file of the learned Assessing Officer to verify the correction statement of TDS linking the unconsumed challan with the instances of TDS deduction, giving an opportunity to the assessee.

8. In the result, appeal of the assessee for the assessment year 2018-19 is treated as allowed for statistical purposes.

Assessment Years 2019-20 & 2020-21

9. Since the facts of the appeals for the assessment years 2019-20 & 2020-21 are identical to one as decided by us in ITA No. 631/Hyd/2022, for the assessment year 2018-19 (supra) and, therefore, our findings in the said appeal, mutatis mutandis, would apply to these appeals as well. Hence, we set aside the order(s) of the learned CIT(A) and restore the issue(s) to the files of the learned Assessing Officer to verify the correction statement of TDS linking the unconsumed challan with the instances of TDS deduction, giving an opportunity to the assessee, in these appeals also. In the result, these appeals of assessee are also treated as allowed for statistical purposes.

10. To sum-up, all these appeals are treated as allowed for statistical purposes.

Order pronounced in the open court on this the 28th day of April, 2023.

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 28/04/2023

TNMM

Copy forwarded to:

1. M/s. Country Club Hospitality & Holidays Limited, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad.
2. Assistant Commissioner of Income Tax, TDS Circle (TDS)-1(1), Hyderabad.
3. DR, ITAT, Hyderabad.
4. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD