

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

**BEFORE SHRI PRASHANT MAHARISHI, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2575/Mum/2022
(Assessment Year: 2022-23)

Late Russi Dinshaw Bahadurji by his legal heir M/s. Kalyaniwala & Mistry LLP Esplanade House, 2 nd Floor, 29, Hazarimal Somani Marg, Fort, Mumbai-400 001	Vs.	ITO-19(3)(1) Mumbai
PAN/GIR No. AACPB 4740 N		
(Appellant)	:	(Respondent)
Assessee by	:	Shri M M Golvala
Revenue by	:	Smt. Mahita Nair
Date of Hearing	:	06.03.2023
Date of Pronouncement	:	02.06.2023

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2022-23.

2. The assessee has challenged the grounds of denying TDS credit to the extent of Rs.1,77,780/-.

3. Briefly stated the facts of the case are that the appellant being the executor filed the return of income of the assessee (deceased) on 26.07.2022, declaring total income at

Rs.1,19,68,096/-. The return was processed u/s. 143(1) of the Act and the CPC /ld. Assessing Officer ('A.O.' for short) raised a demand of Rs.1,77,780/- which is due to short grant of TDS credit.

4. Aggrieved the assessee was in appeal before the ld. CIT(A) who directed the A.O. to verify Form 26AS and to give credit of the prepaid taxes after verification of 26AS.

5. The assessee is in appeal before us, challenging the order of the ld. CIT(A).

6. We have heard the rival submissions and perused the materials on record. It is observed that the assessee was the Trustee and the settler of the 'Deed of settlement of K D Bahadurji' and on the demise of his brother Shri K. D. Bahadurji, the original life tenant, his wife Smt. Biku Bahadurji became the life tenant and upon her demise, the trust reverted back to the assessee. The entire income of 'Deed of settlement of K D Bahadurji' amounting to Rs.17,77,840/- was offered to tax in the hands of the assessee and the corresponding TDS credit of Rs.1,77,780/- was claimed by the assessee in his return of income as per the provisions of section 199 of the Act. The assessee contended that he had declared Nil return for the Trust dated 26.07.2022 for the reason that there was a specific provision in the Form for transfer of TDS and that in the form it was declared that TDS credit was transferred to the assessee along with the PAN number. The assessee further contended that the assessee had made all the disclosures with respect to TDS pertaining to the assessee as well as the 'Deed of settlement of K D Bahadurji'. The CPC/Assessing Officer ('A.O.' for short) had denied the short granting TDS credit on the

above circumstances which the assessee was entitled to as per section 199 read with Rule 37BA of the I. T. Rules.

7. The first appellate authority has directed the ld. A.O. to verify Form 26AS filed by the assessee and thereby give credit of the prepaid taxes subject to verification of the same. We find that the ld. CIT(A) has given relief to the assessee by remanding the issue back to the A.O. for the reason that the ld. CIT(A) does not have access to the assessee's Form 26AS and has rather directed the A.O. to give credit after due verification. We, therefore, direct the A.O. to give TDS credit for the year under consideration within 90 days from the date of this order.

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

Order pronounced in the open court on 02.06.2023.

Sd/-

(Prashant Maharishi)
Accountant Member

Mumbai; Dated : 02.06.2023
Roshani, Sr. PS

Sd/-

(Kavitha Rajagopal)
Judicial Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai