

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI
BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
ITA No. 262/Mum/2023 (A.Y. 2017-18)

N. R. Gulati Trust

C/o G. P. Mehta & Co.,
807, Tulsiani Chambers,
Nariman Point,
Mumbai-400 021

PAN: AAATN0381M

..... Appellant

Vs.

DCIT, CPC

Bengaluru,
Karnataka-560 500

..... Respondent

Appellant by : Shri G. P. Mehta, CA
Respondent by : Shri Chetan M. Kacha, Sr. AR

Date of hearing : 29/03/2023
Date of pronouncement : 15/05/2023

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of National Faceless Appeals Centre; Delhi (for short 'NFAC') dated 28.11.2022 u/s. 250 of the Income Tax Act, 1961 (for short 'the Act') for A.Y. 2017-18. The assessee has raised the following grounds of appeal:

“1. The orders passed by the learned lower authorities are bad in law and bad in facts.

2. The learned lower authorities have grossly erred in not allowing credit of TDS claimed at Rs. 39,414/- and have further erred in not granting refund of Rs. 39,414/-

3. The appellant being a private family trust having determinate share of beneficiaries provisions of section 161 of the IT Act, 1961 are applicable and consequently the refund amount of Rs. 39,414/- ought to have been allowed.

4. Having regard to the facts of the case, provisions of law & judicial propositions, the refund in question ought to have been allowed.

5. The appellant may please be permitted to raise any additional or alternative ground on or before the hearing of appeal.”

2. Brief facts of the case are that assessee is a private family trust Filed its return of income on 17.02.2018, declaring NIL income and claiming credit for T.D.S. of Rs. 39,414/-. Return of the assessee was processed u/s. 143(1) of the Act, vide Dated: 15.06.2019 accepting the return income at Rs. NIL, but claim of T.D.S. as refund was not granted to the assessee. Against this intimation Dated: 15.06.2019, assessee preferred a rectification application u/s. 154 of the Act vide dated: 12.09.2019. This rectification application was disposed off by the CPC, Bengaluru vide order dated: 26.09.2019 with assigning the reasons for non-grant of refund, i.e., Non reflection of T.D.S. amount in form no. 26AS. Being aggrieved with this order u/s. 154 assessee preferred an Appeal before the Ld. CIT (A). In his order Ld. CIT (A) addressed this issue vide para nos. 6.11, 6.12 and 6.13 of his order u/s. 250 dated: 28.11.2022.

3. Assessee still not satisfied and preferred this appeal before us. We have gone through the order of CPC, Bengaluru and order of Ld. CIT (A)

mentioned (supra) along with the copies of form no. 26AS submitted by assessee before us. It is observed that figure of income declared, status of the assessee is not under challenge before the authorities below. The only grievance of the assessee is non-grant of refund against T.D.S. deducted. Apparently, this issue cropped up because of mismatch in the claim of the assessee and form no. 26AS uploaded by deductor. As assessee has submitted before us, latest form no. 26AS updated till 21.03.2023 which clearly reflects deduction and consequent credit available to the assessee.

4. In view of this, we direct the Jurisdictional AO to verify and take cognizance of latest form no. 26AS and grant the refund to the assessee based on copy of form no. 26AS submitted by the assessee. In these terms grounds raised by the assessee is allowed.

5. **With the above directions, appeal of the assessee is allowed.**

Order pronounced in the open court on 15th day of May, 2023.

Sd/-

(KULDIP SINGH)
JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 15/05/2023

Mahesh R. Sonavane

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

6. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy. / Asstt. Registrar)
ITAT, Mumbai