

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

BEFORE

**DR. BRR KUMAR, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 118/Del/2023
Asstt. Year: 2017-18

Grewal Foundation, D-3/3129, Vasant Kunj, New Delhi – 110 070. PAN AABTG0264B	Vs.	ITO, Ward Exemption 1(2) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Jaspal Singh, CA
Department by:	Shri Vivek Kumar Upadhyay, Sr. DR
Date of Hearing:	31.08.2023
Date of pronouncement:	27.09.2023

ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the assessee arises out of the order dated 22.11.2022 of the Ld. Commissioner of Income Tax (Appeals) NFAC, Delhi ("**CIT(A)**") pertaining to Assessment year ("**AY**") 2017-18.

2. The solitary ground of appeal is as under:-

"1. The Ld. AO has erred in allowing only credit of TDS of Rs. 1,91,836/- out of Rs. 4,23,893/- claimed by the appellant and the credit for the balance amount of Rs. 2,32,057/- was not allowed though allowable as per provision of section 199 of the Act."

3. We have heard the Ld. Representative of the parties and perused the records. It is not in dispute that the assessee claimed credit of TDS of Rs.

4,23,893/- in the return of income for AY 2017-18. It is also not in dispute that the deductor has credited royalty income of Rs. 42,38,926/- payable to the assessee in AY 2017-18 on which tax of Rs. 4,23,893/- has been deducted. On these facts, the claim of the assessee cannot be faulted. The denial of credit of Rs. 2,32,057/- by the Revenue in AY 2017-18 is due to the fact that the assessee, following cash system of accounting declared royalty income of Rs. 13,15,033/- on actual receipt basis in the return for AY 2017-18 and the balance of Rs. 25,00,000/- in AY 2018-19 notwithstanding the fact that the entire TDS of Rs. 4,23,893/- out of the royalty income of Rs. 42,38,926/- was made by the deductor, Sultan Chand and Sons Pvt. Ltd. which being a company followed mercantile system of accounting, in AY 2017-18 itself. The Ld. AR made statement at the bar that the assessee has claimed TDS of Rs. 4,23,893/- in AY 2017-18 and no TDS out of Rs. 4,23,893 has been claimed in AY 2018-19.

4. On appreciation of the facts and circumstances of the assessee's case, we are of the view that allowing credit of Rs. 1,91,836/- out of Rs. 4,23,893/- claimed by the assessee and denial of credit of TDS of Rs. 2,32,057/- in AY 2017-18, the AY under consideration is not justified. Accordingly, we direct the Ld. AO to allow the credit of TDS of Rs. 2,32,057/- in AY 2017-18 after duly verifying the above contention of the assessee from his records.

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

Order pronounced in the open court on 27th September, 2023.

sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER

Dated: 27/09/2023
Veena

sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
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Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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