

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. Nos. 96 & 97/Jodh/2022
Assessment Years: 2016-17 & 2017-18

M/s Madan Mohan Jain
& Sons 4th, Central School
Scheme, Jodhpur, Rajasthan

Vs. Income Tax Officer,
Ward 1(3), Jodhpur

[PAN: ABBFM 1874C]

(Appellant)

(Respondent)

Appellant by : None
Respondent by : Sh. S. M. Joshi, JCIT-DR

Date of Hearing : 18.10.2023
Date of Pronouncement : 19.10.2023

ORDER

Per Dr. M. L. Meena, AM:

Both the captioned appeals have been filed by the assessee against the separate orders of the Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 31.05.2022 in respect of Assessment Years: 2016-17 & 2017-18 respectively challenging therein the rejection of TDS credits as

per Form 26AS by confirming the rectification order passed by the AO u/s 154 r.w.s. 143(3) of the Act.

2. None attended for the assessee, the adjournment application filed by the applicants is found devoid of merits and therefore rejected for invalid reasons it is decided to hear the Id. DR and adjudicate the appeal on the merits of the case.

3. The Id. DR submitted that in ITA No. 96/Jodh/2022 in respect of Assessment Year 2016-17 is taken as a lead case for the discussion of any adjudication of the identical issue raised in both the appeals. Therefore, submitted that the Id. CIT(A) has observed that the AO disposed of the applicants application vide order passed u/s 154 dated 24.07.2020 rejecting the appellant assessee's claim of TDS deducted in the individual proprietor's name.

4. The Id. DR referred to para 5.2 of the CIT(A) order which reads as under:

"5.2 The two essential requirements for claim of credit of TDS are that the corresponding income should have been declared by the deductee in its return, and secondly, the deductor should have filed the TDS statement showing the name of the deductee and the amount of tax deducted. In the present case, the deductor has made payment to the firm. However, in the TDS statement submitted to the Department, the deductor has mentioned

the PAN of the individual as that of the deductee. Hence, the appellant is unable to claim credit for such TDS. It is true that the individual, Sh Subhash Chand Jain, can also not claim the credit, because the income does not pertain to him and he has not shown such income in his return. In this situation, the only plausible solution is rectification of the PAN of the deductee by the deductor, by way of filing of correction statement. After the relevant correction is made and the credit of the TDS is available to the appellant in the Form 26AS, it will be entitled to claim such credit. The appellant should approach the deductor to file correction statement for updating TDS statement by changing the deductee PAN and once the relevant correction is made, it may approach the Assessing Officer to grant credit of the same. The Assessing Officer is directed to allow credit of TDS available to the appellant as per the latest form 26AS.”

5. The Id. DR submitted that the Id. CIT(A) was justified in observing that the only plausible solution is rectification of the PAN of the deductee by the deductor, by way of filing of correction in Form 26AS so as to enable the availability of credit of TDS to the appellant assessee. He, accordingly, directed the appellant to request the deductor for updating TDS statement by changing the deductee PAN. Accordingly, he prayed that the impugned order may be upheld.

6. We have heard the Id. DR, perusal of record and the impugned order. We find that there was a mistake in the PAN no. in the TDS statement issued in Form 26AS to the appellant assessee wherein the PAN no. of Sh. Subhash Chand Jain an individuals is mentioned in place of the appellant assessee. The Id. CIT(A) has directed the appellant assessee to file a

correct TDS statement after updating his PAN no. in Form 26AS issued by the deductor to enable the Competent Authority to allow the aforesaid claim of the TDS made by the appellant. In our view, once the relevant correction is made by updating appellant assessee PAN no. in its Form 26AS statement, the appellant assessee would file the copy to the Assessing Officer to grant credit of the same. Thus, the Id. CIT(A) was justified in issuing direction to the Assessing Officer to allow credit of the TDS as claimed by the appellant assessee as per the latest updated Form 26AS. We, therefore, find no infirmity or perversity in the decision of the Id. CIT(A) to the facts on record.

7. Accordingly, the grounds of appeal raised by the appellant assessee are liable to be rejected.

8. **ITA No. 96/Jodh/2022**: The issue and the facts in ITA No. 96/Jodh/2022 are exactly identical to the facts and issues in ITA No. 97/Jodh/2022. Therefore, our observations and findings given in ITA No. 96/Jodh/2022 shall be applicable to the appeal in ITA No. 97/Jodh/2022 in mutatis mutandis. Ordered accordingly.

9. In the result, both the appeals of the assessee are dismissed.

Order pronounced in the open court on 19.10.2023

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

GP/Sr.PS

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT (A)
5. The DR
6. Guard File

Assistant Registrar
Jodhpur Bench