

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SMT RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.4687/Mum/2023  
(Assessment Year :2022-23)**

Income Tax Officer 3(10(3)) 666, Aayakar Bhavan M.K.Road Marine Lines Mumbai – 400 020	Vs.	Chandrapur Waste Water Management Pvt. Ltd. 116A, 11 <sup>th</sup> Floor Maker Chambers VI, 220, Nariman Point Mumbai – 400 021
<b>PAN/GIR No.AAJCC2938H</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Satyaprakash Singh
Revenue by	Shri H.M. Bhatt
<b>Date of Hearing</b>	<b>09/05/2024</b>
<b>Date of Pronouncement</b>	<b>10/05/2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the Revenue against order passed by CIT(A) dated 20/11/2023 for the A.Y.2022-23 and Revenue has raised the following grounds:-

*“1. Whether on the facts & circumstances of the case, the Ld. CIT(A), NFAC is justified in allowing credit of TDS amounting to Rs. 55,17,260/- without considering the facts that assessee failed to recognize/offered income for taxation on the receipts received as per FORM 26AS during the year.*

2. Whether on the facts & circumstances of the case, the Ld. CIT(A), NFAC is justified in ignoring the provision of rule 37BA of Income Tax Rule r.w.s. 199 of the Act, which provides that Credit for tax deducted at source and paid to the Central Government, shall be given for the assessment year for which such income is assessable.

2. Here in this case, credit of TDS was denied in the intimation u/s.143(1) by the CPC on the ground that corresponding income on which TDS claimed has not been declared. The ld. CIT(A) give following direction to the ld. AO.

*“14. Decision:*

*The TDS credit is available in Form 26AS and is verifiable. The Assessing officer is therefore directed to allow the correct TDS claim available in Form 26AS for the appellant.”*

3. In pursuance of his direction given by the ld. CIT(A), the ld. AO in his order given effect to the ld. CIT(A)'s order after verifying the income has allowed the credit. The relevant order of the ld. AO is reproduced hereunder:-

*“3 On perusal of ITR, it is found that assessee has not shown any receipts for the A Y 2022 23, therefore, assessee was asked to reconcile the same*

*4. The assessee vide its reply to this, assessee has submitted the following documents as under*

*(a) Form 26AS*

*(b) Concession agreement on Public Private Partnership basis entered into between Maharashtra State Power Generation Co. Ltd and assessee*

*(c) Financials for the year ended on 31.03.2022*

5 On perusal of the documents submitted by the assessee the following observations are made as under:

5.1 The assessee company was incorporated on 17.02.2021. The assessee company has been incorporated with objective of to execute the project of "Implementing the Project of Design, Engineering, Supply, Erection, Construction Testing, Commissioning. Operation & Maintenance of Recycling & Reuse of 50 MLD Tertiary Treated Sewage Water from STPs of Chandrapur City Municipal Corporation for Unit No. 8 & 9 (2 x 500MW) at Chandrapur Super thermal Power Station (CSTPS) on PPP basis awarded by Maharashtra State Power Generation Co. Ltd.

5.2 On perusal of the concession agreement dated 24.02.2021 between Maharashtra State Power Generation Co. Ltd (MAHAGENCO) and assessee, it is observed that the assessee is a special purpose vehicle set up the successful bidders M/s Vishvaraj Environment Private Limited and M/s Vedic Waste Water Management (P) Ltd. M/s Vishvaraj Environment P ltd holds 90% of the shares and M/s Vedic Wastewater Management Pvt Ltd holds the remaining 10% of the shares of the assessee

**5.3 As per Article 17.4, MAHAGENCO shall provide Rs.78.93 crore to the assessee as a grant available from Chandrapur Municipal Corporation under AMRUT Mission. The grant shall be paid to the assessee as Payment Milestone in proportion of the work completed in four stages. As per Form 26AS statements, the assessee has received Rs 34,34,07,612/ as grant for the year under consideration.**

**5.4 Further, as per article 17.5 of the concession agreement, 10% of the Total Project Cost or 20% of the total Grant allocated for the Project, whichever is lower, shall be given to assessee as Mobilization Advance. This advance shall be adjusted against the Milestone Payments. The Mobilization advance shall be received from each Milestone payment of grant paid to assessee.**

**5.5 Therefore, considering the Article, 17.4 & 17.5, MAHAGENCO has given grant of Rs.34,34,07,612/- (gross) and out of which Rs.6,75,44,642/- has been adjusted as Mobilization Advance, and net grant of Rs.27,58,62,970/ has been given to the assessee**

**5.6 MAHAGENCO while giving this amount of Rs.27,58,62,970/- has deducted tax at source at 2% u/s 194C of the Income Tax Act, 1961, as evident Form 26AS.**

**5.7 The assessee has shown this grant under the Head "Capital Work in Progress" of Rs.96,24,25,000/-for the year ending 31.03.2022 and that is why the assessee has not shown this amount under gross receipts**

**6. Therefore, considering the above facts, the claim of TDS credit is allowed as directed by Addl CIT(A) vide his order ITBA/APL/S/250/2023-24/1058076313(1) dated 20.11.2023 and revised total income/loss of the assessee company is determined as under**

*Particulars of Income Total income as per Order passed u/s 143(1) dated 13.05.2023.*

<b>Particulars of Income</b>	<b>Amount in Rs.</b>	<b>Amount in Rs.</b>
Total income as per Order passed u/s.143(1) dated 13/05/2023		Nil
<b>Revised Total Income</b>		<b>Nil</b>

**Revised accordingly Give credit for TDS. Charge interest/allow as per law Issue DN/RO accordingly.**

4. Once the TDS credit has been allowed by the AO after detail reasoning and verification of accounts, then there is no substance in the ground raised by the department and same is dismissed.

**5. In the result, appeal of the Revenue is dismissed.**

Order pronounced on 10<sup>th</sup> May, 2024.

**Sd/-**  
**(RENU JAUHRI)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 10/05/2024  
KARUNA, sr.ps

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**