

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCH, 'A', CHANDIGARH

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT &
DR KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. **699/CHD/2022**

निर्धारण वर्ष / Assessment Year : 2020-21

Shri Chandresh Jain, Prop. M/s Prabhat Thread (India), Gali No. 3, Mahavir Colony, G.T. Road, Sunder Nagar, Ludhiana 141008	Vs. बनाम	The ITO, Ward 2(1), Ludhiana
स्थायी लेखा सं./PAN No: ABDPJ7395R		
अपीलार्थी ./ Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से/Assessee by : Sh. Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr.DR

सुनवाई की तारीख/Date of Hearing : 09.05.2024
उद्घोषणा की तारीख/Date of Pronouncement : 15.05.2024

आदेश/Order

Per Dr. Krinwant Sahay, A.M.:

In this case, appeal dated 22.11.2022 was filed against the order dated 23.10.2022 of the ld. CIT(A), NFAC, Delhi. Later on, it was withdrawn by the ld. Counsel of the Assessee by filing a written submission as under:-

"It is very humbly submitted that ld. Assessing Officer has since passed the order u/s 154, wherein, the substantial relief has been granted to

the Assessee vide order dated 12.04.2022 and, therefore, in view of the above said order, the necessary benefit has been given to the Assessee and, therefore, the Assessee does not wish to press the appeal before the Hon'ble Bench and oblige.”

2. The request of the Id. Counsel was accepted and he was allowed to withdraw the appeal vide ITA No.699/Chd/2022. In fact, the Id. Counsel of the Assessee was under the impression that order passed u/s 154 of the I.T. Act by the CPC was considered by the Id. CIT(A), NFAC but the Counsel of the Assessee could not see that the Id. CIT(A) had enhanced the disallowance of TDS paid and he had confirmed this addition. Later on, when the mistake was realized, the Assessee filed a Miscellaneous Application No. 13/Chd/2023. After hearing the Counsel of the Assessee and the Id. DR, the Miscellaneous Application was allowed and the Order dated 12.09.2023 was recalled vide ITA No.699/Chd/2022.

2. The Grounds of appeal taken in this case are as under:

1. *That the Ld. CIT (Appeals) NFAC, Delhi has erred in confirming addition amounting to Rs.3,61,954/- u/s 143(1) of the Income Tax Act,1961 on account of the following items:-*

- i) *TDS payable on Interest Rs. 3,47,764.00*
- ii) *TDS payable on contract Rs. 5,790.00*

iii) TDS payable on professional Rs. 8,400.00

3. *Notwithstanding, the above said ground of appeal, the CIT(A) has even otherwise failed to appreciate that the said amount shown as payable to the tune of Rs. 3,61,954/- was credited in the books of accounts on 31st of March 2020 and, as such, the prescribed time as per the 'Act' to pay the said amount was 30th of April 2020 and since the TDS was deposited within the extended time due to COVID-19 and, therefore, no such disallowance was otherwise called for.*

4. *That the appellant craves leaved to add, amend, alter any of the above Grounds during the appellate proceedings have been considered.*

3. Ground No.4 is general in nature.

4. Grounds of appeal Nos. 1, 2 and 3 are on the same issue of disallowance of TDS / TCS amounting to Rs. 3,61,954/- confirmed by the Id. CIT(A).

5. Brief facts of the case are that the Assessee filed its return of income for A.Y. 2020-21 on the basis of Audit report on 29.12.2020. The intimation from CPC, Bengaluru vide order dated 29.12.2020 was received wherein the CPC had disallowed payments of bonus ESI, labour welfare, leave with wages, TDS, GST etc. for late payment in the Government account. Against this order of 143(1) of CPC, the Assessee filed an appeal before the Id. CIT (A), NFAC. Meanwhile, the

Assessee also filed an Application u/s 154 to the CPC. The CPC, Bengaluru made rectification order u/s 154 of the I.T. Act and allowed most of the points raised by the Assessee in its application. The same was intimated by the Assessee to the ld. CIT(A) but the ld. CIT(A) enhanced the addition on the basis of TDS payable on interest which according to CIT(A) was to be deposited within seven days of the next month and he further stated that the TDS payable on professional charges was also late and, thus, enhanced the addition to the tune of Rs. 3,61,954/- as per relief given by the CPC, Bengaluru u/s 154 of the I.T. Act, 1961. Now, the ld. Counsel has filed a written submission on this issue as under:

“The CIT(A) has failed to appreciate that the TDS payable on interest’ as per Rule 30 has to be deposited in respect of deduction made in the month of March or on or before 30th of April and which, in the present case have been made on 30.04.2020 as per the report of the Auditor and, thus. CIT (A) has erred in making the disallowance of such TDS, which was paid within stipulated time and has wrongly observed that it should be paid within seven days, which is as per clause 1(b) of rule 30.

The TDS payable on contract and TDS on professional was paid on 29.07.2020 and as per the provisions of section 43B, if the assessee pays the amount on or before the due date applicable in the case of assessee for furnishing the return of income, then, no such adverse will be taken into consideration.

Thus, since the TDS have been paid on 30.04.2020 and other two payments have been made before the due date of filing the return, then there is no default and hence the CIT(A) was not justified in making the addition.”

6. The ld. DR relied on the order of the CIT(A).

7. We have considered the findings given by the ld. CIT(A) that the rectification order regarding payment of TDS by the CPC was not as per law and therefore, the ld. CIT(A) has made addition of Rs. 3,61,954/- on this account. The ld. CIT(A) has given his findings that all deductions of TDS / TCS are to be deducted and they are to be deposited within seven days of the succeeding month to the Central Government Account. The ld. Counsel in his arguments has brought it on record that the findings of the ld. CIT(A) is not applicable for TDS / TCS deducted for the month of March. It is evident from Rule 30 of the I.T. Rules, 1962, which are reproduced as under:-

“30. (1) All sums deducted in accordance with the provisions of Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government—

- (a) on the same day where the tax is paid without production of an income-tax challan; and*
- (b) on or before seven days from the end of the month in which the deduction is made or income-*

tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.

(2) All sums deducted in accordance with the provisions of Chapter XVII-B by deductors other than an office of the Government shall be paid to the credit of the Central Government—

- (a) on or before 30th day of April where the income or amount is credited or paid in the month of March; and*
- (b) in any other case, on or before seven days from the end of the month in which—*
 - (i) the deduction is made; or*
 - (ii) income-tax is due under sub-section (1A) of section 192.*

[(2A) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), any sum deducted under section 194-IA shall be paid to the credit of the Central Government within a period of [thirty days] from the end of the month in which the deduction is made and shall be accompanied by a challan-cum-statement in Form No. 26QB.]

8. We have considered the findings of the Id. CIT(A), NFAC and the submissions filed by the Id. Counsel for the Assessee on this issue. It is evident that as per the Rule 30 of the Income Tax Rules, 1962, the TDS/ TCS deducted for the month of March may be credited / deposited in the Government Account by 30th day of April.

Keeping in view the discussion above and the position of Rule 30 of the I.T. Rules, 1962, the Assessee's appeal on this issue is allowed.

9. In the result, the appeal of the Assessee is allowed.

Order pronounced on 15.05.2024._

Sd/-
(A.D. JAIN)
Vice President

Sd/-
(DR KRINWANT SAHAY)
Accountant Member

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar