

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Manjunatha, G. Accountant Member and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.364/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 201)

VKA Constructions Hyderabad PAN:AABFV3644E (Appellant)	Vs.	Dy. C. I. T. Circle 9(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Kaushal Karan, Assessee	
राजस्व द्वारा / Revenue by:	Shri Shakeer Ahmed, DR	
सुनवाई की तारीख / Date of hearing:	11/06/2024	
घोषणा की तारीख / Pronouncement:	11/06/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 12/02/2024 of the learned CIT (A)/Addl./JCIT(A)-2 Guwahati, relating to A.Y.2019-20.

2. The brief facts of the case are that the assessee is a partnership firm and engaged in the business of carrying on civil construction work to govt. and other organizations. The appellant has filed its return of income for the A.Y 2019-20 on 31.10.2019

declaring income of Rs.3,79,11,481/- and claimed credit for TDS of Rs.1,00,76,431/- and TCS credit of Rs.1,04,370/- respectively. The return of income has been processed and intimation u/s 143(1) of the I.T. Act, 1961 has been issued on 7.5.2020 and demanded tax payable of Rs.20,34,030/-. The CPC Bengaluru, while processing the return of income has considered the TDS credit of Rs.83,90,271/- and TCS credit of Rs.94,356/-.

3. The assessee preferred an appeal before the learned CIT (A), but could not succeed. The learned CIT (A) for the reasons stated in appellate order dated 12.02.2024 dismissed the appeal filed by the assessee and upheld the action of the Assessing Officer in not giving credit for TDS in absence of necessary TDS certificate and credit in Form 16.

4. The assessee submitted that the learned CIT (A) erred in not appreciating the fact that as per section 199 r.w.s. 37BA(3)(i) of the Rules, credit for taxes should be allowed in the year in which such income is assessable to tax. The assessee further submitted that since the assessee is following mercantile system of accounting, it has offered income on accrual basis even though the bills were not realized from various govt. departments and claimed TDS as per the bill. The Department has deducted TDS as and when payment was made and, because of this there was a mismatch in TDS credit as per the return of income and TDS credit available in form 26AS. The assessee took us to Paper

Book filed for this purpose and explained that in two cases, there is a mismatch because of nonpayment of bills by Executive Engineer (R&B) N H Division Hyderabad and Chief Engineer & COO HRDCL, Hyderabad. The assessee has reconciled the above mismatch along with form 26AS and explained that the differential amount of TDS as credited in Form 26AS for A.Y 2020-21. Since the appellant has offered income relatable to TDS for the A.Y 2019-20, the Assessing Officer and the learned CIT (A) ought to have allowed credit for TDS as per section 199 r.w.s. 37BA(3)(i) of the I.T. Rules, 1962.

5. The learned DR, on the other hand, submitted that although the assessee claims to have reconciled the difference towards TDS credit as per return and TDS credit available in form 26AS, but these evidences were not placed before the Assessing Officer. Therefore, the matter may be set aside to the file of the Assessing Officer and the Assessing Officer may be directed to verify the claim of the assessee and allow tax credit in accordance with law.

6. We have considered the rival arguments of both the parties, perused the material available on record and gone through the orders of the authorities below. As per provisions of section 199 of the I.T. Act, 1961 r.w.rule 37BA(3)(i), credit for TDS should be allowed in the A.Y in which such income is assessable to tax. The assessee claims that the income pertaining to

differential amount of TDS and TCS has been offered to tax for the A.Y 2019-20. Although there is no specific discussion on this aspect either in the assessment order or in the appellate order, but the fact remains that when the assessee makes a claim, that should be addressed with proper reasonings. If the assessee claim is correct that income relatable to said TDS difference is assessed for the A.Y 2019-20, then credit for TDS/TCS should be allowed for A.Y 2019-20 itself even if the said credit is appeared in Form 26AS for the subsequent or earlier A.Ys. Therefore, we are of the considered opinion that the facts needs to be verified and thus, the issue has been set aside to the file of the Assessing Officer and direct the Assessing Officer to reconsider the issue of credit for TDS/TCS in the light of evidences that may be filed by the assessee including necessary reconciliation and allow the credit for TDS/TCS in the A.Y in which such income is assessable/ assessed to tax.

7. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 11th June, 2024.

Sd/- (K. NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 11th June, 2024

Vinodan/sps

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2	Office of the Dy.CIT 9(1) Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order