

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.620/Bang/2024
Assessment year : 2021-22

Karnataka Solar Power Development Corporation Ltd., 6/13/1, KREDL Office Building, 10 th Block, 2 nd Stage, Nagarabhavi S.O. Bangalore North. Bangalore – 560 072. PAN : AAFCK 7685P	Vs.	The Deputy Commissioner of Income Tax, Circle 4(3)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ganesh S., Advocate
Respondent by	:	Shri Subramanian, S., Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	13.06.2024
Date of Pronouncement	:	31.07.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 8.2.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2021-22 on the following grounds:-

“1. The First Appellate Authority erred in holding that the appeal should have been filed against intimation under Section 143(1) instead of order under Section 154 when the issue

involved is for credit of TDS and no difference in assessed income.

2. The First Appellant Authority erred in not giving an opportunity for hearing nor an opportunity to make ground-wise written submission though it is mentioned as written submission was filed vide para 3 of the impugned order, only time was sought to file written submission.

3. The First Appellate Authority erred in not considering any of the facts or grounds and passed the order only on the manner by which the Appeal was filed.

4. The Centralized Processing Cell (CPC) erred in reducing the interest under Section 244A from Rs. 69,47,033/- to Rs. 27,78,813/- which is due to the Appellant on the refund already granted.

5. The CPC further erred in reducing the interest under Section 244A while it is supposed to grant additional refund of Rs. 7,84,445/- arising on account of rectification order dated 06.07.2023 and additional interest of Rs. 1,41,200/- (Computed up to March 2024) under Section 244A on the TDS credit of Rs. 7,84,445/-.

The above grounds and other grounds that may be urged at the time of lating of the appeal, your Appellant humbly prays that the appeal may be lowed and justice rendered.”

2. Briefly stated the facts of the case are that the assessee is a Govt. of Karnataka undertaking which is a nodal agency of Govt. of Karnataka to implement the Govt. Solar Power Policy and initiative towards developing solar parks in the state. The assessee filed return of income declaring income at Rs.41.95 crores and claimed refund of Rs.9.35 crores and return was filed on 11.03.2022. Return was processed u/s. 143(1) on 17.06.2022 granting refund of Rs.9,95,74,208 including interest of Rs.69,47,033. It means actual refund was granted

against the excess tax paid of Rs.9,26,27,175 (9,95,74,208-69,47,033). Accordingly there was short TDS credit given to the assessee of Rs.7,84,445 against which the assessee filed rectification application u/s. 154 dated 02.09.2022 for claiming TDS credit of Rs.7,84,445. Rectification order was passed on 6.7.2023 and interest u/s. 244A of Rs.69,47,033 was reduced to Rs.27,78,813. In the first rectification application the intimation was also generated showing interest of Rs.69.47,033. Accordingly demand was generated of Rs.33,83,770 against which the assessee filed appeal before the CIT(Appeals).

3. The CIT(Appeals) did not accept the prayer and rejected noting that the original cause of action is 143(1) and the issue raised in rectification application u/s. 154 cannot be adjudicated in the present case observing that there was no mistake apparent from the record at the stage of order passed u/s. 154 and dismissed the appeal of the assessee. Aggrieved from the above order, the assessee is in appeal before the ITAT.

4. The Id. AR of the assessee reiterated submissions made before the lower authorities and submitted that when the original intimation passed u/s. 143(1) the interest was granted of Rs.69.47 lakhs and not granted TDS credit of Rs.7,84,445 and in the order passed u/s. 154 dated 6.7.2023, the CPC granted TDS credit as claimed by the assessee. He also submitted that first order passed u/s. 154 there was no change in the interest granted u/s. 244A which was pari materia with intimation passed u/s. 143(1). The CPC has reduced the interest

u/s. 244A granted earlier without giving any reason and the Id. CIT(Appeals) has not granted proper opportunity to the assessee for representing its case and the Id. CIT(Appeals) has also not considered the facts of the case properly. The CPC should have granted additional refund of Rs.7,84,995 arising on account of rectification order dated 6.7.2023 and additional interest of Rs.1,41,200 which was computed upto March, 2024. Accordingly he requested that the matter may be sent back to AO for fresh calculation of interest u/s. 244A and TDS refund.

5. The Id. DR relied on the order of the CIT(Appeals) and submitted that there is no mistake apparent on the face of record. The assessee should have filed appeal against 143(1) order separately. The CIT(Appeals) has rightly dismissed the case of the assessee.

6. Considering the rival submissions, we note that the dispute here is only regarding short granting of interest u/s. 244A and TDS refund of Rs.7,84,445. While processing the return there was a short TDS credit of Rs.7.84 lakhs and interest u/s. 244A was granted of Rs.69.47 lakhs. But on second rectification interest u/s. 244A was revised and accordingly there is a demand generated of Rs.33,83,779. The Id. CIT(Appeals) has not properly appreciated the present facts of the case, whereas the CPC had accepted the rectification petition u/s. 154 and again assessee filed rectification petition for the previous rectification order passed u/s. 154, therefore the CIT(Appeals) should not have rejected the appeal of the assessee summarily. Therefore,

considering the entire facts of the case and request made by the Id. AR, we remit this issue back to the file of AO for the purpose of verification and after verifying the documents compute the correct claim of TDS and interest u/s. 244A on refund granted to the assessee. Needless to say that reasonable opportunity of hearing be given to the assessee. The assessee is directed to substantiate its case for early disposal of the case. Accordingly the appeal is allowed for statistical purposes.

Pronounced in the open court on this 31st day of July, 2024.

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-

(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 31st July, 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.