

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "J (SMC)", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
AND SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA NO. 4031/MUM/2024 : A.Y : 2021-22**

Freight Carriers Private Limited  
1<sup>st</sup> Floor, Behramji Mansion,  
Sir P.M. Road, Fort,  
Mumbai 400 001.

**PAN : AAACF4177E** (Appellant)

Vs. Deputy Commissioner of Income  
Tax, Circle 2(1)(1), Mumbai.  
(Respondent)

**Appellant by : Shri Sanjay Parikh**  
**Respondent by : Shri Asif Karmali**

**Date of Hearing : 23/09/2024**  
**Date of Pronouncement : 06/11/2024**

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER :**

The assessee has filed this appeal challenging the order dated 18.06.2024 passed by the learned Addl/JCIT(A)-2, Surat (in short 'learned CIT(A)') and it relates to Asst. Year 2021-22. The assessee is aggrieved by the decision of learned JCIT(A) in confirming the short credit of TDS claimed by the assessee.

2. The facts relating to the case are that the assessee is a Customs Clearance, Cargo Clearing and Forwarding agent and also undertakes airlines ticket booking. The Form 26AS relating to the year under consideration reflected TDS amount of Rs.9,84,452/- and the assessee claimed the same as

deduction against the tax payable by it in the return of income filed by it. However, while processing the return of income, the TDS credit was given only to the extent of Rs.4,94,225/- resulting in short credit of Rs.4,90,227/-. Apparently, the income declared by the assessee was not equal to the amount on which the TDS of Rs.9,84,452/- had been deducted.

3. Aggrieved, the assessee filed appeal before the learned JCIT(A). Before Ld JCIT(A), the assessee submitted that its customers have deducted TDS on the entire payments made to it, while the payments so made included various expenses that would be incurred by the assessee on their behalf. It was submitted that the payments made towards reimbursement of various expenses do not constitute income in the hands of the assessee and hence they were not routed through the Profit & Loss Account. It was submitted that the assessee has accounted for only income portion of the payments in its profit and Loss account. However, the JCIT(A) expressed the view that, if the payers have deducted TDS wrongly in the PAN of the assessee, the said mistake should be rectified at the deductors' end only. He also observed that the customers of the assessee could have deducted TDS treating the payments made to the assessee as contract payments and in that case, the assessee should have disclosed the entire receipts in the Profit and Loss account. Since the assessee has not done the above things, the Ld JCIT(A) confirmed the denial of TDS credit by CPC. Aggrieved, assessee has filed this appeal before the Tribunal.

4. We heard the parties and perused the record. The learned AR has submitted a statement before us, as per which TDS has been deducted on the gross amount of Rs.5,87,84,296/- whereas assessee has declared income of Rs.2,90,12,423/- in the Profit & Loss Account. It is the submission of the

assessee that the difference would represent reimbursement of expenses on which TDS was wrongly deducted by the customers for the assessee. As observed by Ld JCIT(A), there is a possibility that the customers may have deducted TDS under Section 194C of the Income Tax Act, 1961 (in short 'Act') treating the payments made to the assessee as 'contractual payments'.

5. If the TDS has been deducted treating the payments as contractual payments, then what is required for the assessee is to recast the Profit and Loss account showing the reimbursements received as Income and the corresponding expenses as Expenditure. In that case, there should not be any problem in giving TDS credit to the assessee. Accordingly, we direct the assessee to recast the profit and loss account and since the same requires verification, we restore this issue to the file of the AO for examining it. Accordingly, we set-aside the order passed by the learned CIT(A). The AO may take appropriate decision in accordance with law, after affording adequate opportunity of being heard to the assessee.

6. In the result, appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 6<sup>th</sup> November, 2024.

Sd/-  
(RAJ KUMAR CHAUHAN)  
JUDICIAL MEMBER

Sd/-  
(B.R. BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 06/11/2024

SSL

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai