

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.2460/दिल्ली/2024 (नि.व. 2017-18)
ITA No.2460/DEL/2024 (A.Y.2017-18)

Kailash Rani Shridhar,
R/o H No. 715, Sector 15A, Faridabad,
Haryana 121001
PAN: ADZPS-2752-H

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Ward 1(4),
Faridabad, New CGO Complex, NH 4, NIT Faridabad,
Haryana 121001

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : S/Shri A.S Nagpal & Kunal Nagpal, Advocates
प्रतिवादीद्वारा/ Respondent by : Shri Rajesh Tiwari, Sr. DR
सुनवाई की तिथि/ Date of hearing : 10/12/2024
घोषणा की तिथि/ Date of pronouncement: : 10/12/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)/Additional Joint Commissioner of Income Tax-(Appeals), Aurangabad (hereinafter referred to as 'the CIT(A)') dated 20.03.2024, for assessment year 2017-18.

2. The assessee in appeal has raised six grounds assailing the action of CIT(A) enhancing the income from house property from Rs.14,89,822/- to Rs.15,84,322/- and enhancing the income from other sources from Rs.5,78,144/- to Rs.8,36,483/-.

The assessee has further assailed the order of CIT(A) and Assessing Officer (AO) in not allowing credit of TDS as per Form no. 26AS.

3. Shri A.S Nagpal, appearing on behalf of the assessee narrating facts of the case submitted that the assessee was running a proprietorship firm under the name M/s Kalkaji Tools. Since, the assessee was not able to manage the business, the assessee transferred ownership of proprietorship firm to Bansi Lal Shridhar w.e.f. 01.04.2016. The assessee immediately, thereafter, informed the Department regarding change of ownership vide communication dated 07.04.2016 (at page 8 of the paperbook). The assessee also got necessary amendments done in VAT documentation w.e.f 01.04.2016. Revised registration certificate under VAT in the name of M/s. Kalkaji Tools was issued by the authorities, the same is at page 14 and 15 of the paper book. The assessee had informed regarding sale of business/change in ownership of proprietorship firm to all its business partners. However, some of the business associates of the assessee deducted TDS in the old PAN. The same has not been claimed by the assessee till date. The assessee made a request to the Department to adjust TDS against new PAN w.e.f 01.04.2016 ,as the assessee had sold its business and had also informed to the Department. However, the AO failed to consider submissions of the assessee and made addition. The assessee further prayed for allowing/adjusting TDS credit as per Form 26AS against PAN of new proprietor of the firm.

4. Per contra, Shri Rajesh Tiwari representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee.

5. Both sides heard, orders of the authorities below examined. The solitary issue in appeal is against not allowing the benefit of TDS credited available in PAN

of assessee to the new proprietor of firm M/s. Kalkaji Tools. The contention of the assessee is that the assessee had sold the proprietorship firm to Bansi Lal Shridhar vide agreement to sell dated 01.04.2016. The assessee had intimated to the Department regarding fact of closure of business by the assessee and transfer of the same to her husband Shri Bansi Lal Shridhar vide communication dated 07.04.2016. Since, some of the parties had deducted TDS on the PAN of assessee and the assessee has not claimed said TDS as it pertains to proprietorship firm M/s. Kalkaji Tool and the legitimate beneficiary of TDS is new proprietor Bansi Lal Shridhar, hence, credit of said TDS s be allowed to the new proprietor under new PAN.

6. Taking into consideration entire facts of the case, I deem it appropriate to restore this issue back to the file of AO for fresh consideration and allow the benefit of TDS credit reflected in Form 26AS to the right full assessee in whose account the relevant transaction amount is credited.

7. In the result, impugned order is *set aside* and appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 10th day of December, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 10/12/2024

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI