

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No. 2150/KOL/2024
(Assessment Year: 2019-20)**

**M/s Everbright Vinimay Private
Limited**
64, Bentinck Street 3rd Floor,
Kolkata-700069, West Bengal

Vs.

Income Tax Officer
Aaykar Bhavan, P-7,
Chowringhee Square,
Kolkata-700069,
West Bengal

(Appellant)

(Respondent)

PAN No. AACCE6379H

Assessee by : Shri Abhishek Bansal, AR
Revenue by : Shri Sailen Samadder, DR

Date of hearing: 07.01.2025
Date of pronouncement : 31.01.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 11.09.2024 for the AY 2019-20.

02. The only issue raised by the assessee in various ground of appeal is against the order of Id. CIT (A) upholding the order of the Id. AO, wherein the Id. AO has denied the TDS credit of ₹5,09,976/- of transferor companies which were duly amalgamated with the assessee company with effect from 01.04.2018, vide order of NCLT dated 30.09.2019.



03. The facts in brief are that the assessee filed the return of income on 30.12.2019, by declaring total income of ₹2,35,280/- and claimed refund of ₹6,29,710/-. The return was processed u/s 131 of the Act accepting the return of income, however TDS credit to the tune of ₹5,09,976/- was disallowed and a refund of ₹1,22,730/- was issued to the assessee. The assessee filed the rectification on 13.09.2020 for TDS credit and the rectification order u/s 154 of the Act was passed on 28.09.2020 in which the TDS credit remain unchanged. The assessee preferred an appeal before the Id. CIT (A) and the Id. CIT (A) dismissed the appeal of the assessee by not condoning the delay of 113 days on the ground that there was no sufficient cause for delay in filing the appeal without discussing the merit in the appellate order.
04. After hearing the rival contentions and perusing the materials available on record, we note that four companies namely; Everbright Vinimay Pvt. Ltd., Jiban Jyoti Vinimay Pvt. Ltd., Perfection merchants Pvt. Ltd. and Vijaypath Retails Pvt. Ltd. were amalgamated with the assessee company vide amalgamation order dated 30.09.2019, with effect from appointed date i.e. 01.04.2018. The copy of the said order is available at page no.1 to 45 of the Paper Book. The assessee accordingly incorporated the income of these companies as well as the TDS deduction on behalf of four transferor companies and accordingly the income was computed and TDS refund was also claimed. However, we note that during the processing of the return u/s 143(1) of the Act, the TDS credit of ₹5,09,976/- was denied to the assessee which was related to the transferor of companies which were merged with the assessee company vide NCLT order as stated hereinabove. The assessee also filed reconciliation of income tax as per Profit and Loss account and as per form no.26-AS, before us which is available at page no.163 and 164 of the Paper Book. We find that the assessee is



entitled to credit of TDS deducted on behalf of transferor of companies merged with the assessee. It is therefore an open and shut case, where the assessee has to be allowed TDS credit of ₹5,09,976/-. Accordingly, we restore this issue to the file of the Id. AO to allow the TDS credit of ₹5,09,976/- after necessary verification and after allowing reasonable opportunity to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

05. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 31.01.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated:31.01.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata