

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

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.29/Bang/2025
Assessment Year : 2021-22

Bhagirath Construction Co., No.43, 240/A, 3 <sup>rd</sup> Floor, 57 <sup>th</sup> Cross 3 <sup>rd</sup> Block, Rajajinagar Bangalore 560 010  <b>PAN NO : AAFFB1921J</b>	<b>Vs.</b>	DCIT Central Circle-1(2) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Smt. Suman Lunkar, A.R.
<b>Respondent by</b>	:	Ms. Neha Sahay, D.R.

<b>Date of Hearing</b>	:	09.04.2025
<b>Date of Pronouncement</b>	:	22.04.2025

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against the order of Id. CIT(A)-11 Bengaluru dated 26.12.2024 vide DIN : ITBA/APL/M/250/2024-25/1071587860(1) for the assessment year 2021-22.

**2.** The assessee has raised the following grounds of appeal:

1. The learned Commissioner of Income tax (Appeals) has erred in passing the impugned order in the manner passed and is dismissing the appeal. The impugned order as passed and is liable to be quashed.
2. In the case the Commissioner of Income tax (Appeals) has erred in upholding the order made by the Deputy Director of Income tax, CPC in which full credit for TDS was not given as claimed by the appellant. The TDS of Rs. 78,44,038/- appearing in Form 26AS should have been given credit as against the credit given for Rs. 71,61,308/- by Assessing Officer. The appellant is entitled to full credit of TDS and same should have been given to it.

3. The learned Commissioner of Income tax (Appeals) has erred in holding that there is mismatch between the figures in Form 26AS and the figures in financial statements. The facts of the case have not been properly considered by Commissioner of Income tax (Appeals). On proper consideration of the facts there is not mismatch at all.

4. The learned Commissioner of Income tax (Appeals) has also erred in holding that income figure mentioned in Form 26AS has to be considered and TDS is to be given credit accordingly and on the conclusion of Commissioner of Income tax (Appeals) is not correct and this conclusion has to be disregarded.

5. In any case, without prejudice the learned Commissioner of Income tax (Appeals) has erred in holding that the adjustments as done in the intimation is correct. On the facts and circumstances of the law applicable, the adjustment is not permitted by the law and therefore such an adjustment being erroneous is to be deleted.

6. In view of the above grounds and on other grounds to be adduced at the time of hearing, it is requested that impugned order is quashed or at least the appellant held to be entitled to TDS as claimed.

**3.** At the outset, ld. A.R. of the assessee filed petition for adjournment by submitting that the appeal is posted for hearing for the first time and the assessee would like to file paper book and also require some more time to compile the details and accordingly prayed for adjournment.

**4.** The brief facts of the case as narrated by the AR of the assessee are that the assessee being a partnership firm filed its return of income on 2.3.2022 for the AY 2021-22 declaring total income of Rs.3,50,68,640/- and claimed Rs.43,470/- as refund. The returned income consists of income from house property, income from business or profession and income from other sources. Thereafter, the return of the assessee firm was processed and intimation u/s 143(1) of the Act was passed on 25.8.2022 by raising a demand of Rs.1,35,710/- giving credit for TDS amounting to Rs.77,36,193/- as against Rs.78,44,038/- as claimed by the assessee in the return of income.

**5.** Aggrieved by the intimation passed, the assessee had filed a rectification return online on 14.9.2022 in response to which, the assessee had received rectification order u/s 154 of the Act dated 12.5.2023 by the ld. DDIT, CPC Bengaluru by accepting the returned income and increasing the demand to Rs.8,72,990/-. The reason for such increase in demand to Rs.8,72,990/- from Rs.1,35,710/- in the order passed u/s 154 was due to the fact that TDS credit has been given amounting to Rs.71,61,308/- as against TDS credit of Rs.78,44,038/- as claimed in the return of income. Thereafter, the assessee had filed two more rectification application but of no use. Finally the assessee had filed another rectification application online on 8.6.2023. In response thereto, the assessee had received an rectification order passed u/s 154 of the Act dated 14.8.2023 by the ld. DDIT, CPC, Bangalore by again accepting the returned income but retaining the demand of Rs.8,72,990/-.

**6.** Again aggrieved by the order passed u/s 154 of the Act dated 14.8.2023, the assessee has preferred an appeal before the ld. CIT(A)-11 Bangalore. The ld. CIT(A) dismissed the appeal of the assessee by holding that CPC has correctly adopted the income as appearing in the Form 26AS and granted corresponding TDS credit.

**7.** Again aggrieved by the order of ld. CIT(A), the assessee has filed the present appeal before this Tribunal.

**8.** Before us, the ld. A.R. of the assessee submitted that the ld. CIT(A) erred in holding that there is mismatch between the figures in Form 26AS and the figures in financial statement. Further, ld. CIT(A) erred in holding that income figure mentioned in Form 26AS has only to be considered and TDS is to be given credit accordingly.

**9.** Ld. D.R. on the other hand supported the order of authorities below but admitted that these facts require to be examined by the AO.

**10.** We have heard the rival submissions and perused the materials available on record. The main contention of the ld. CIT(A) in disallowing the credit of TDS is that the gross receipt as per 26AS was Rs.47,59,74,485/- whereas on perusal of the audit report and profit & loss account shows the contract revenue for the year under consideration is only Rs.42,68,47,260/- and accordingly allowed the TDS credit to the extent declared in form 26AS. Before us, the ld. AR of the assessee submitted that the assessee needs to file certain reconciliation statements along with supporting documents by way of paper book in order to substantiate its claim. We are also of the considered opinion that assessee could not produce the reconciliation/documents/ submission during the course of proceedings u/s 154 of the Act. This being so, in the interest of Justice & fairplay we deem it fit to remit the entire issue in dispute to the file of AO for fresh consideration in accordance with law. Needless to say, reasonable opportunity of being heard must be granted to the assessee. The assessee is also directed to submit the reconciliation of the gross receipt as reflecting in 26AS and as declared in the profit & loss account along with supporting documents/records/information which they are willing to file before us by way of paper book. The AO shall accordingly grant credit of TDS as per law. It is ordered accordingly.

**11.** In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 22<sup>nd</sup> Apr, 2025

**Sd/-**  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 22<sup>nd</sup> Apr, 2025.  
VG/SPS

Copy to:

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

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**