

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 162/RPR/2025

(निर्धारण वर्ष Assessment Year: 2023-24)

Shri Jagannath Transport Corporation, 111 Pagaria Complex, Near Bus Stand, Pandri, Raipur, (C.G.)	V s	Deputy Commissioner of Income Tax, Circle-1(1), Raipur
PAN: AACFJ3511F		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से /Assessee by	:	Shri Bikram Jain, CA
राजस्व की ओर से /Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	06.05.2025
घोषणा की तारीख/Date of Pronouncement	:	07.05.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals)/ Addl / JCIT (A)-1, Nasik, [in short "Ld. CIT(A)"], passed on 22.01.2025, under section 250 of the Income Tax Act, 1961 (in short "the Act"), for the Assessment Year 2023-24, which in turn arises out of the intimation passed u/s 143(1) by the Centralized Processing Centre (hereinafter referred to as "CPC"), Bengaluru, dated 24.04.2024.

2. The grounds of appeal raised by the assessee are as under:
1. *On the facts and in the circumstances of the case, the ADDL/JCIT has erred in sustaining the order of CPC, Bangalore, where in CPC, Bangalore proportionately disallowed the TDS claimed by the assessee amounting to Rs.23,10,058/- with respect to difference between the gross turnover as per form 26AS and total receipts offered to tax under various heads in the return. The disallowance Rs.23,10,058/- of TDS made by the CPC, Bangalore and sustained the same by ADDL/JCIT is unjustified, unwarranted and uncalled for.*
 2. *The appellant reserves the right to add, amend or alter any grounds of appeal at any time of hearing.*
3. Brief facts of the case are that the assessee had filed its Return of Income for the Assessment Year 2023-24 on 28.10.2023, declaring total income of Rs. 2,23,12,720/-, claiming refund of Rs.71,77,330/-. While processing the return of assessee, the same was considered defective by the CPC and notice u/s 139(9) was issued on 13.02.2024, stating that the gross receipts of assessee reflecting in Form 26AS, on which credit for TDS has been claimed, are higher than the total of the receipts shown under all heads of income, in the return of income. Thus, while credit for TDS is being claimed, the corresponding receipts are not offered in the respective income schedules, to arrive at the taxable total income. Hence, the return of income filed is regarded as defective, as provided in Explanation (a) under section 139(9) and accordingly, the TDS credit granted to assessee was computed and has been reduced to Rs. 1,26,52,567/- as against of Rs.1,49,62,620/-

claimed by the assessee in its return income. Consequently, the refund amount claimed by the assessee has been reduced to Rs. 23,10,053/-.

4. Being aggrieved with the reduction in refund through intimation order u/s 143(1) by the CPC. The appellant / assessee filed an appeal before the First Appellate Authority, wherein the appeal of assessee is dismissed by the Ld. CIT(A) with the following observations:

In view of the above, it is inferred that the information regarding the deduction of tax and deposit of such tax deducted by the deductor has to be given to the Central Government and in a certificate to be issued to the deductee. This can be evidenced by TDS certificate and Form 26AS. A perusal of the Form 26AS of the appellant shows that Rs. 1,26,64,229/- was deducted against a payment of Rs. 2,23,12,720/-. Since TDS of Rs. 1,26,64,229/- is evidenced by Form 26AS pertaining to the appellant, the grant of credit of TDS of Rs. 1,26,64,229/- against the TDS claimed in ITR of Rs. 1,49,74,282/- by the CPC and disallowed the TDS of Rs. 23,10,053/- is correct and justified. The contention made by the appellant is not acceptable. The ground raised by the appellant is dismissed.

5. At the outset, it is submitted by the Ld. AR on behalf of the assessee that the TDS claimed by the assessee in its return are not allowed by the CPC on account of variation in gross receipts shown by the assessee in its return of income and the gross receipt as per Form 26AS. It was the submission that the reason for higher amount that gross receipt in Form 26AS

was on account of deduction of TDS on GST amounts also by some parties and some parties are following cash basis of accounting system, due to which they deducted TDS in the year of payment, and accordingly, the said receipts were already accounted for by the assessee in the earlier year, therefore, such receipts need not be taken as income for the year under consideration. To explain the aforesaid facts and contentions, a written synopsis has been furnished by the Ld. AR along with reconciliation regarding gross receipts of the assessee as per its return of income viz-a-viz gross receipts in Form 26AS. For the sake of completeness, the synopsis submitted by the assessee is extracted as under:

Sri Jagannath Transport Corporation

ITA 162 / RPR / 2025

A.Y.2023-24

DOH : 06.05.2025

BRIEF FACTS:

The present appeal has been filed by the assessee against the order of the Ld Addl/JCIT (A)-1, Nashik, wherein the Ld Addl/JCIT (A)-1 has sustained the intimation issued u/s 143(1) by the CPC, Bengaluru wherein CPC, Bengaluru has proportionately disallowed the TDS claimed by the assessee amounting to Rs.23,10,058/- with respect to difference between the gross turnover as per form 26AS and total receipts offered to tax under various heads in the return of Income.

GROUND NO.1:

“On the facts and in the circumstances of the case, the ADDL/JCIT-Appeal has erred in sustaining the order of CPC, Bangalore, where in CPC, Bangalore proportionately disallowed the TDS claimed by the assessee amounting to Rs.23,10,058/- with respect to difference between the gross turnover as per form 26AS and total receipts offered to tax under various heads in the return. The disallowance of TDS made by the CPC, Bangalore and sustained the same by ADDL/JCIT is unjustified, unwarranted and uncalled for.”

SUBMISSION:

Observation of ADDL/JCIT-Appeal:

- Refer para-6 (page no-11 to 14) of the Ld. ADDL/JCIT-Appeal order.

Submission:

1) Intimation issued u/s 143(1) is beyond jurisdiction :-

- That the return filed u/s 139(1) was considered defective while processing by the CPC and notice u/s 139(9) was issued on 13.02.2024 to the assessee. As per the said notice, defect was on account of reason mentioned below :-

“The gross receipts shown in Form 26AS, on which credit for TDS has been claimed, are higher than the total of the receipts shown under all heads of income, in the return of income. Thus, while credit for TDS is being claimed, the corresponding receipts are not offered in the respective income schedules, to arrive

at the taxable total income. Hence, the return of income filed is regarded as defective, as provided in Explanation (a) under section 139(9)" and accordingly TDS credit granted to assessee was computed as under:-

Computation of restriction of TDS based on rule 37BA

S.no	Particular	Amount
1.	Total receipts offered to tax under various heads (including receipts under Schedule EI other than the Agriculture income part) in the return.	Rs. 60,81,25,458/-
2.	Total receipts as per Form 26AS from various deductors (amounts appearing against TCS and 194N are not receipts, hence omitted)	Rs. 69,98,75,842/-
3.	Credit of TDS claimed in the return	Rs. 1,49,62,620/-
	TDS credit allowed as per rule 37BA=1/2*3	Rs. 1,26,52,567/-

Copy of screenshot of response to defective notice is enclosed at **page no. 23 of APB.**

- That in response to above defective the assessee filed response on 24.02.2024 by stating as under :-

"the gross receipts shown in Form 26AS, on which credit for TDS has been claimed, are higher than the total of the receipts is due to the following reasons:-
1. Some of the Parties has deducted TDS on Gross Bill Amount i.e TDS was deducted on GST amount also. 2. Some parties are following cash basis of accounting system and due to which they deducted TDS in the year of payment, the said receipt was already accounted for by the assessee in the previous year in which the bill was raised in our books of accounts."

Copy of screenshot of response to defective notice is enclosed at **page no. 23 of APB.**

- That The return was processed by the CPC, and an intimation under Section 143(1) was issued on 24.04.2024. The assessee claimed a TDS credit of Rs. 1,49,62,620/- in the return, but only Rs. 1,26,52,567/- was granted. The TDS credit was computed proportionately based on the difference between the gross turnover as per Form 26AS and the total receipts offered for tax under various heads in the return, resulting in a reduction of the refund by Rs. 23,10,053/-. Kindly refer 6th page of intimation order which was enclosed with Form-36.
- The intimation issued under Section 143(1) of the Income Tax Act, 1961 by the Centralized Processing Center (CPC), Bengaluru, is beyond its jurisdiction, as it does not fall under any of the categories of adjustments specified under Section 143(1). Moreover, the issue at hand requires detailed verification, which is not permissible under Section 143(1) and is, in fact, within the scope of Section 143(3) of the Income Tax Act, 1961. The said contentions of the assessee finds support from the following judgments:-
- **EASTER INDUSTRIES LIMITED vs. UNION OF INDIA**, (2012) 81 CCH 0105 DelHC (Kindly refer page no-105-110 of APB)
 - **COMMISSIONER OF INCOME TAX vs. PHIL CORPORATION LTD. & ANR.**, (2011) 79 CCH 0477 MumHC (Kindly refer page no-105-110 of APB)
 - **SMT. SHANTA CHOPRA vs. INCOME TAX OFFICER & ORS**, (2004) 72 CCH 0416 DelHC (Kindly refer page no-105-110 of APB)
 - **SRF CHARITABLE TRUST vs. UNION OF INDIA & ORS.**, (1991) 59 CCH 0995 DelHC (Kindly refer page no-105-110 of APB)
 - **CHHAIL SINGH vs. DDIT, CPC Bengaluru**, (2024) ITA No. 92/ JODH / 2024 (Kindly refer page no-105-110 of APB)

- 2) That the reason for variation in turnover between books of accounts and 26AS are as under :-

Si. No	Particulars	Amount	Amount
A	Turnover As Per 26AS		69,98,75,842
B	Reason for differences as under:-		
	Difference due to GST	-5,31,69,683	
	Difference Due To Bills Recorded In Last Year In Books of assessee But In 26AS Showing In Current Year	-73,35,939	
	Sales recorded in books in which no TDS has been deducted	4289956	
	Sales recorded in current year but TDS deducted in next FY	6964676	
	Interest Income Showing In Books And In Form 26AS but not the part of turnover and the same is shown under other head of Income . (Refer Sr. No.6,9,11-13 of Form 26AS) (Inadvertently mentioned in CIT(A) reply as under:- "Interest Income Showing In Books And Not In 26AS/TDS has Not Been Deducted")	-1015776	
	GST neutralization in books	3515232	
	Sales that does not pertain to assessee but showing in form 26AS (TDS of Rs.1,15,952/- inadvertently claimed) . (Refer Sr. No.5 of Form 26AS)	-5797606	
	Security deposit wrongly considered as TDS and due to which sales wrongly recorded in 26AS (sales recorded in 26AS at 6,01,65,700/- instead of 1,69,95,961/-). The assessee has claimed TDS of Rs. 4,01,105/- in books of account i.e. 2 % of Gross	-43169739	

	Bill amount i.e. of Rs. 2,00,55,234/- since TDS is regularly deducted on Gross amount by the Customer. Therefore TDS of Rs. 8,02,209/- (12,03,314 - 4,01,105/-) inadvertently claimed.		
	Difference due to credit notes	-2688516	-98407395
C=A+B	Turnover as per books		601468447
D	Other business income shown in P/L		
	Interest Booked In P/L	1233073	
	Arbitration Award	4716902	
	IT Refund interest	678206	
	Other Income	28804	6656985
E=C+D	TOTAL INCOME AS PER BOOKS		608125432

Party wise detail reconciliation of above working along with relevant bills are enclosed at page 24-25 (for reconciliation) and 64-104 (for invoices) of APB.

- That the total TDS inadvertently claimed as per above working is Rs.9,18,161/- (Rs.1,15,952/- +8,02,209/-) .
- Considering the above working, a TDS amount of Rs.13,91,892/- (Rs.23,10,053 - Rs.9,18,161) should be allowed.

It is prayed accordingly.



CA Bikram Jain
(Counsel for the Assesse)

6. Based on aforesaid submission, it was the prayer by the counsel of the assessee that, the assessee had rightly claimed the TDS, which is wrongly been understood by the CPC and, the Ld. Addl/ JCIT had interpreted without verifying the facts and reconciliation submitted and explained by the assessee. Under such facts and circumstances, the TDS credit claimed by the assessee shall be allowed and the disallowance proposed by the Ld. AO and confirmed by the First Appellate Authority are liable to be deleted.

7. Per contra, Ld. Sr. DR, representing the revenue submitted that since the assessee was unable to explain the variation in gross receipts shown in the Form 26AS as against the lower amount shown by the assessee in its Return of Income, therefore, the Ld. CIT(A) had rightly confirmed the disallowance and dismissed the appeal of the assessee. Ld. Sr. DR vehemently supported the order of revenue authorities and requested to uphold the same.

8. We have considered the rival submissions, perused the material available on record. On perusal of the findings of Ld. CIT(A), it is found that the assessee had made explanatory submissions and reply before the First Appellate Authority, however, the decision of the Ld. CIT(A) was without verifying the facts by himself or through the Ld. AO, therefore, in the interest

of justice, the reconciliation prepared and submitted by the assessee before us, needs further verification by the revenue authorities. Consequently, the matter deserves to be restored back to the file of Ld. CIT(A), who had decided the issue without adhering to the provisions of section 250(4) & (6).

9. In terms of our aforesaid observations, the matter is directed to set aside to the file of Ld. CIT(A) to verify the facts furnished by the assessee and accordingly decided the issue afresh in according to the provisions of law, within a period of 3 months from receipt of this order.

10. Needless to say, the assessee shall be afforded with reasonable opportunity of being heard in the set aside appellate proceedings. The assessee as conceded through its authorized representative before us, also directed to cooperate and assist proactively in the set aside proceedings, failing which the Ld. CIT (A) would be at liberty to decide the case in accordance with the mandate of law.

11. In result, appeal of the assessee is **allowed for statistical purposes**, in terms of over aforesaid observations.

Order pronounced in the open court on 07/05/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 07/05/2025
Vaibhav Shrivastav

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- Sri Jagannath Transport Corporation, Raipur
2. प्रत्यर्थी / The Respondent- DCIT, Circle-1(1), Raipur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur