

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No.489/MUM/2025
(Assessment Year: 2016-2017)**

Mayur Prakash Heroor

A 903, Snehabandhan CHS, Mhada Layout,
Opposite R R Education Trust, Mulund East,
Mumbai – 400081. Maharashtra.

[PAN:ABMPH4305C]

..... **Appellant**

Vs

**Erstwhile Deputy Commissioner of
Income Tax Circle 29(2), Mumbai**

Now Deputy Commissioner of Income Tax
Circle 41(2)(1), Mumbai
Kautilya Bhavan, C 41-43, G Block BKC,
Gilban Area, Bandra Kurla Complex
Mumbai – 400051. Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Shubham Goyal
Shri Rajesh Agrawal
For the Respondent/Department : Shri R. R. Makwana

Date

Conclusion of hearing : 13.03.2025
Pronouncement of order : 30.04.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 25/11/2024, passed by the Additional/Joint Commissioner of Income Tax (A) – 12, Delhi [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had dismissed the appeal against the Order, dated 25/12/2018, passed under Section 144 of the Act for the Assessment Year 2016-2017.

2. The Assessee has raised following grounds of appeal :

1. *The learned assessing officer [circle 29(2)] has erred in not*

allowing TDS credit amounting to Rs.6,90,790/- while passing the assessment order u/s.144 of Income Tax Act, 1961. Furthermore, the honorable Commissioner of Income Tax (Appeal), (Addl/JCIT(A)-12), erred in confirming the same without giving the sufficient and further opportunity of being heard.”

3. We have heard the rival submission and have perused the material on record.
4. The relevant facts in brief are that for the Assessment Year 2016-2017, the Assessee filed return of income on 17/10/2016 declaring total income of INR.98,84,470/- which was selected for scrutiny. The Assessing Officer completed the assessment accepting the returned of income as assessed income. It is the case of the Assessee that while granting credit for Tax Deducted at Source (TDS), the Assessing Officer did not grant credit of tax deducted at source amounting to INR.6,90,790/-. Therefore, the Assessee preferred appeal before the Learned CIT(A) against the Assessment Order, dated 25/12/2018, passed under Section 144 of the Act. On perusal of statement of facts filed before the Learned CIT(A) it becomes clear that Assessee had explained that the Assessee was maintaining accounts on cash basis whereas parties making payment to the Assessee were following mercantile system of account, therefore, there was a mismatch of TDS. It was explained that TDS credited of INR.2,06,500/- was reflected in Form 26AS for Financial Year 2014-2015 and TDS credited of INR.4,84,290/- pertaining to Financial Year 2015-2016 was reflected in Form 26AS for the Financial Year 2016-2017. It was submitted that Assessee had not claimed the aforesaid TDS amount during the aforesaid financial years. Instead, the Assessee had claimed the credit of aforesaid TDS amount in the return of income for the Assessment Year 2016-2017 since the corresponding income had also been offered to tax as income for the Assessment Year 2016-2017 by following cash basis of accounting. On perusal of order impugned, we find that the learned CIT(A)

dismissed the appeal preferred by the Assessee vide order, dated 25/11/2024, since the Assessee had failed to comply with notice of hearing issued on 14/11/2024 and 19/11/2024. According to the CIT(A), the Assessee was not vigilant and had failed to discharge the primary onus/burden to substantiate the claim made in grounds of appeal despite adequate opportunity having been granted to the Assessee. After taking into consideration the facts of the present case, we are not in agreement with the view taken by the learned CIT(A). We note that two notices of hearing were issued to the Assessee within a gap of 15 days before dismissing the appeal. The Learned Authorised Representative for the Assessee has placed on record affidavit of the concerned tax professional handling the tax matters before the CIT(A) wherein it has been stated that the aforesaid notices were sent to the email address which was earlier used by the tax professionals and therefore, the notices could not be complied with.

5. During the course of hearing it was explained by the Learned Authorised Representative for the Assessee that during the relevant Assessment Year 2016-2017, the Assessee had claimed total TDS credit of INR.14,34,889/- in the income tax return, in the following manner:

S. No.	Particulars	Amount (INR)
1.	Total TDS credit as available in form 26AS	8,35,866/-
2.	Less-TDS carried forward to AY 2017-2018	82,694/-
3.	Less-TDS deducted/deposited after filing of ITR	9,074/-
4.	TDS credit available as per 26AS at the time of filing of ITR	7,44,098/-
5.	Add-Unclaimed TDS credit brought forward from AY 2015-2016	2,06,500/-
6.	Add-TDS deducted by deductor in AY 2017-2018	4,84,290/-
	TDS Credit Claimed in AY 2016-2017	14,34,889/-

As demonstrated in the table above, the learned Assessing Officer has not allowed the TDS credit amounting to INR.6,90,790/-

(INR.2,06,500+ INR.4,84,290), since the entry is not reflected in the 26AS of the Assessment Year 2016-17, and allowed the TDS credit amounting to INR.7,44,099/- only as against TDS credit of INR.14,34,889/- claimed by the Assessee in the original Income tax Return.

6. Keeping in view of the facts and circumstances of the present case and the explanation offered by the Assessee, we deemed it appropriate to set aside the issue back to the file of Assessing Officer with the directions to grant credit of TDS of INR.6,90,790/- (INR.2,06,500+ INR.4,84,290), after verifying that (a) the corresponding income has been offered to tax by the Assessee in the return of income for the Assessment Year 2016-2017 and (b) the Assessee had not claimed credit of such tax deducted at source in the in the return of income for the Financial Years 2015-2016 and 2017-2018. It is clarified that the Assessee shall be granted reasonable opportunity of being heard. In terms of aforesaid, Ground No.1 raised by the Assessee is allowed.
7. In result, the appeal preferred by the Assessee is treated as allowed for statistical purposes.

Order pronounced on 30.04.2025.

Sd/-
(Renu Jauhri)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :30.04.2025
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai