

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**I.T.A. No. 369/Asr/2024**  
Assessment Year: 2017-18

Inderjit Singh  
M/s Golden Auto Industries,  
Vill. Mangal Khera, Phagwara,  
Punjab 144401

[PAN: AKEPK7855M]

**(Appellant)**

Vs.

Income Tax Officer,  
Ward -1, Phagwara

**(Respondent)**

Appellant by : Sh. Aditya Sharma, C.A.  
Respondent by : Sh. Charan Dass, Sr. D.R.  
Date of Hearing : 26.05.2025  
Date of Pronouncement : 07.07.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is preferred by the assessee against the order of the Id. CIT(A) NFAC, Delhi, passed u/s 250 of the Income Tax Act, 1961 dated 25.04.2024 which has arisen from the order of the AO, CPC, Bengaluru dated 17.12.2020 passed u/s 154 of the I.T. Act, 1961.

2. The grounds of appeal taken by the assessee in Form No. 36 are as follows:

- “1. That on facts and circumstances of the case and as per provisions of law, the worthy Commissioner of Income Tax (Appeals), NFAC has erred in confirming the addition made by the Centralized Processing Center, Bengaluru while processing the return of income under section 143(1) of the Income Tax Act, 1961
2. That the worthy Commissioner of Income Tax (Appeals), NFAC has erred in upholding the addition made under section 143(1) of the Income Tax Act, 1961 against the guidelines laid down by the CBDT as per instruction No. 10/2017 dated 15/11/2017.
3. That the worthy Commissioner of Income Tax (Appeals), NFAC failed to appreciate the fact that income reported in Form 26AS has been offered to tax in the return of income of M/s Golden Auto Industries, Phagwara in which the assessee is a partner and that the assessee had filed a rectification return to delete the inadvertent claim of TDS immediately upon receipt of intimation under section 143(1) of the Income Tax Act, 1961.
4. That Appellant requests to add, amend or leave any grounds of appeal before the appeal is finally heard or disposed off.”

3. Brief facts emerging from records are that the assesseean individual (*Mr. Inderjit Singh*) is a partner of the partnership firm *M/s Golden Auto Industries* PAN: [AAKFG 9983E] and during the *financial year 2016-17*, relevant to the year under appeal, contract work has been executed by the partnership firm under ***Bharat Heavy Electricals Ltd.*** amounting to Rs.9,94,655/- and the said amount has been

duly disclosed in the return of income filed by the partnership firm ( *ITR-5*) on 31/10/2017, and the said amount is duly reflected in audited profit and loss account and balance sheet of the partnership firm and audit report ( *TAR* ). Copy of computation of the partnership along with the copy of return receipts has been filed by way of a paper book before us.

4. On the other hand, the assessee has filed its return in *Form No. ITR-2* on 21.03.2018 disclosing an income of Rs.3,37,040/- ( *including partners remuneration and interest on capital and share in profits of the partnership as per ledger*). However, the *contractee (Bharat Heavy Electrical Ltd )*, has deducted TDS against execution of contract work by the partnership firm, but has inadvertently credited the PAN of the individual assessee with the said deduction ( *when it should have been credited in the partnership PAN*), and the same is duly reflected in *Form No. 26AS in the Income tax portal* in the name of the assessee.

5. The assessee has also *wrongly* claimed the TDS amounting to Rs.10,406/- in his return of income, when the said TDS should have been claimed by the partnership firm because the gross contract receipt from the contractee has disclosed in the hands of the partnership and has also assessed as such. As such, the assessee, subsequently on realizing his mistake, has revised his individual return on *02.12.2020* disclosing

the same income under similar heads, but reducing the claim of TDS relating to *Bharat Heavy Electrical Ltd.*

6. However, the CPC, Bengaluru has passed a rectification order without taking into consideration, the revised return, and has treated the gross contract receipt from *Bharat Heavy Electrical Ltd.* as reflected in form 26AS, as *income from other sources* and has assessed the same accordingly raising a tax demand of Rs.2,96,000/-.

7. The matter was carried in appeal before the ld. first appellate authority, NFAC and ld. the CIT(A) after going through the written submission filed by the assessee has dismissed the appeal by observing as follows:

*“4. I perused the Form No.35, grounds of appeal, statement of facts, Rectification Order, Written Submissions and the material available on record carefully and my observations in respect of the grounds raised by the appellant are as follows:*

*It is seen that all the grounds relate to the addition made by the AO of contractual receipts of Rs.9,88,377/-, based on the Form 26AS, and since all the grounds are interrelated, the same are dealt together.*

*It is seen from the Form 26AS of the assessee that the assessee is in receipt of contractual receipts from BHEL and a TDS of Rs. 9,947/- was deducted u/s.194C of the Act.*

*Admittedly, the assessee had claimed the TDS thereon u/s. 194C of the Act, of Rs.9,947/- in his hands in the ITR filed by him and this fact has not been denied by the assessee.*

*The assessee claims that the said contractual receipts appearing in Form 26AS were pertaining to M/s. Golden Auto Industries and inadvertently the same have been reflected in the 26AS of the assessee. If that were so, it is seen that the said 26AS was never corrected and no efforts were taken by the assessee to correct the same and on the contrary the assessee has chosen to claim the TDS thereon in his hands in the ITR filed by him.*

*The assessee has also not filed any revised ITR withdrawing the claim of the said TDS on account of the said contractual receipts.*

*The assessee's claim that the addition should have been restricted to 8% of such contractual receipts is also not valid since no expenses against such contractual receipts have been claimed by the assessee. Since, the assessee has failed to claim any expenses w.r.t. the said contractual receipts no such leeway is admissible.*

*In view of the above discussion, the adjustment made by the CPC, Bengaluru in terms of 143(1) (a) (vi) is upheld and the grounds of appeal are dismissed."*

8. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal.

9. In course of hearing, the Id. AR of the assessee reiterated the same submissions that the original return was wrongly filed claiming the benefit of TDS which resulted in CPC, Bengaluru, considering the gross contract receipt corresponding to the said TDS amount, as individual receipt under the head *income from other sources*, which in fact has enhanced the total income.

10. He further submitted that the assessee has corrected his error by filing a revised return, reducing the claim of TDS, and as such the income which has been

considered under the head *other sources* should be deleted because the said contract receipt relates to the partnership ( PFAS ) where it is already considered and assessed and re-assessing the said amount in the hands of the assessee, will result in double taxation. As such, he prayed that the addition made by the AO and sustained by the Id. CIT(A) amounting to Rs.Rs.9,94,655/-, may please be deleted.

11. The Id. DR relied on the order of the Id. CIT(A) and submitted that it is entirely the default of the assessee and should not have claimed the TDS issued by the contractor because the said claim of TDS can only be made against the PAN of the partnership where the gross contract has been considered, as submitted by the assessee. However, considering the factual aspect of the matter, the Ld. DR did not raise any objection if the matter is remanded back to the file of the Assessing Officer for verification of all documents and fresh adjudication.

12. We have heard the rival submissions and considered the materials on record and we find that the entire confusion has arisen because of the incorrect claim of TDS amount made by the assessee, in his individual return, when for all practical purpose the said claim of TDS belongs to the PFAS, where the gross is considered as per provisions of section 199 of the Act 61.

13. From the factual aspect of the matter, it is seen that the gross contract receipts from *Bharat Heavy Electrical Ltd.* amounting to Rs.9,44,655/- has already been disclosed by the partnership firm *Golden Auto Industries* under PAN:[AAKFG 9983E]. On the other hand, the assessee, has already rectified his return by filing a *revised return* where the claim for TDS pertaining of the above contract receipts has been reduced.

14. As such, we are of the opinion that in the interest of justice, the matter should be remanded back to the jurisdictional Assessing Officer , for proper verification of the matter and the assessee is also directed to produce the necessary, audit reports including books of accounts and balance sheet of the partnership , and all other supporting documents , to substantiate the case relating to the gross contract receipt under dispute , which as per claim is already considered for taxation in the hands of the partnership firm. It is further observed by us that the assessee has already disclosed the partnership remuneration amounting to Rs.1,35,000/- and partner's interest from partnership firm amounting to Rs.2,38,132/- along with the share of taxable profit of Rs.15,156/-, from the partnership firm *M/s Golden Auto Industries* which proves that he is a partner of the said firm and both the partnership and individual being separate taxing entity, the gross contract receipt should be

considered and assessed in right hands and on factual findings the assessee will not be entitled to the credit of TDS ( as reflected in 26AS).

15. The Assessee will be allowed reasonable opportunity of being heard and the assessee is also directed to file all documentary evidences in support of his claim and to fully cooperate in fresh assessment proceedings.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 07.07.2025

**Sd/-**  
**(Brajesh Kumar Singh)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1)The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order