

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No. 1042/Bang/2025
Assessment Year : 2018-19

M/s. Shanthala Enterprises, Veeresh Picture House, 1 st Cross, Magadi Road, Bangalore – 560 079. PAN: AAAAS1677E	Vs.	The Income Tax Officer, TDS Ward – 3(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Rajeev Nulvi, Advocate
Revenue by	:	Shri Thamba Mahendra, JCIT-DR

Date of Hearing	:	21-07-2025
Date of Pronouncement	:	25-07-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of Ld.Addl/JCIT(A)-1, Mumbai dated 06/03/2025 in respect of A.Y. 2018-19.

2. The assessee is running a cinema theatre in the name and style of Veeresh Cinemas in Bangalore. There was a survey conducted on 30/10/2019 at the premises of Bigtree Entertainment Pvt. Ltd, Mumbai, who is in the business of providing online ticketing platform for customers for the booking of tickets, food and beverages coupons through its website. At the time of survey, the officers found out various agreements entered into

between Bigtree and various theatre owners and from that the department had found that the end users had paid the cost of the ticket along with the transaction fee of Rs. 5 to 25/- for using the Bigtree online platform. Subsequently, the assessee was paid Rs. 3 to 5/- as their share of the transaction fee along with the ticket cost collected by the Bigtree from the end users based on the invoices raised by the assessee, in which the assessee had included the portion of the convenience fee collected by Bigtree and the said Bigtree also remitted the ticket cost and the share of the convenience fee to the assessee. The assessee raised the invoices bi weekly. The assessing officer was of the view that the assessee should have deducted the TDS on the amount of convenience charges retained by the Bigtree and therefore passed an order u/s. 201(1) and 201(1A) of the Act by treating the assessee in default for not deducting the TDS.

3. The assessee before the AO made a submission that the issue was covered by an order of Coordinate Bench of this Tribunal in the case of Shri Srinivas Rudrappa vs. ITO in ITA Nos. 702 & 703/Bang/2022 dated 02/12/2022. The AO had relied on the finding of the ITAT which was given in the context that who will refund the ticket amount if the cancellation was made and made the order. As against the said order, the assessee filed an appeal before the Ld.CIT(A) and also relied on the earlier order of this Tribunal. The Ld.CIT(A) had extracted the grounds raised by the assessee and the written submissions and without discussing the issue in detail and also the applicability of the order cited by the assessee, had by way of a non-speaking order dismissed the appeal.

4. As against the said order, the assessee is in appeal before this Tribunal.

5. At the time of hearing, the Ld.AR submitted that the issue is covered by the earlier order of this Tribunal in which similar facts are involved. The Ld.AR further submitted that the practice adopted by the assessee is that they would raise the invoices biweekly on the Bigtree Entertainment Pvt.

Ltd. and based on the said invoice raised by the assessee, the Bigtree would remit the ticket cost as well as the share in the transaction fee collected by them. The Ld.AR further submitted that since the assessee had raised the invoice biweekly, the issue of refund would be settled before making the payments by Bigtree. The Ld.AR submitted that if the show has been cancelled on a particular day, the assessee while raising an invoice biweekly, will not claim the ticket charges and the share in the transaction fee and therefore there would not arise any occasion for refund as observed by the Tribunal.

6. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeal.

7. We have heard the arguments of both sides and perused the materials available on record.

8. We have also perused the earlier order of this Tribunal in ITA Nos. 702 & 703/Bang/2022 dated 02/12/2022 in which similar issue was decided in favour of the assessee. In the earlier order of the Tribunal, the Tribunal held that the transaction charges or service charges or convenience fee collected and retained by M/s. Bigtree from the end user is for provision of such services and cannot lead to any inference that M/s. Bigtree acts on behalf of the theatre owners and therefore held that the section 194H would not be applicable to the facts and circumstances of the case.

9. Even though, the said fact was placed before the assessing officer as well as before the Ld.CIT(A), both the authorities had failed to look into the same while making the assessment as well as deciding the appeal. Even the Ld.CIT(A) had not discussed anything about the order of the Tribunal but dismissed the appeal by simply confirming the order of the AO.

10. We have also considered the argument placed by the assessee that insofar as the refund of the ticket amounts are concerned, the assessee had

raised invoices on M/s. Bigtree biweekly and therefore the question of refund would not arise in the facts and circumstances of the case. If the show has been cancelled, the assessee would not raise the invoice and therefore there is no question of giving refund for the booked tickets. Therefore the issue involved in the present appeal is squarely covered by the order of this Tribunal dated 02/12/2022. We are also of the view that the order of the Ld.CIT(A) is not a well considered one. We, therefore set aside the order of the authorities below and allow the appeal filed by the assessee.

11. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 25th July, 2025.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 25th July, 2025.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore