

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्री दुव्वूरु आर एल रेड्डी, उपाध्यक्ष एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE VICE PRESIDENT &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER
(Hybrid Hearing)

आयकर अपील सं./ I.T.A. No.507/Viz/2024

(निर्धारण वर्ष / Assessment Year: 2021-22)

3F Industries Limited,
P.B. No. 15, Tanuku Road,
Tadepalligudem, West Godavari
District, Andhra Pradesh-534102.
PAN: AAACF 2643 K

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by

प्रत्यार्थी की ओर से / Respondent by

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of
Pronouncement

Vs. ACIT,
Circle-1,
Rajamahendravaram.

(प्रत्यर्थी/ Respondent)

Sri Suvibha Nolkha, CA

Dr. Aparna Villuri, Sr. AR

13/08/2025

04/09/2025

ORDER

PER DUVVURU RL REDDY, Vice President:

This appeal filed by the assessee is against the order of the Addl / Joint Commissioner of Income Tax (Appeals)-2, Coimbatore ["Ld. CIT(A)-NFAC"] in DIN & Order No.ITBA/APL/S/250/2024-25/1070657569(1), dated 26/11/2024

arising out of the order passed U/s. 154 of the Income Tax Act, 1961 [“the Act”] for the AY 2021-22.

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

“Based on the facts and circumstances of the case, 3F Industries Limited respectfully submits that in the order passed by the Hon’ble Addl CIT / JCIT (A)-2, Coimbatore under section 250 of the Act dated 05th December, 2024, the Ld. Addl. / JCIT(A)-2 erred in

- (1)Failed to allow credit of unclaimed brought forward TDS of Rs. 13,98,345/- relating to AY 2018-19 in the AY 2021-22.*
- (2)Not considering the appellant’s request to withdraw the appeal as the issue was already decided by the Hon’ble ITAT, Vizag vide ITA No. 134/Viz/2024, dated 25/11/2024.*
- (3)Without prejudice, not following the Hon’ble ITAT judgment in respect of the same issue under consideration and for same AY.*
- (4)The appellant craves leave to add amend substantiate or vary from any of the ground of appeal before or at the time of hearing of the appeal.”*

3. At the outset, the Ld. AR pleaded that the Hon’ble Tribunal has decided the issue in favour of the assessee by allowing the TDS credit of Rs. 13,98,345/- during the impugned assessment year vide its order dated 25/11/2024. This fact was brought to the notice of the Ld. CIT(A) in the appeal against the order U/s. 154 of the Act. The Ld. AR further submitted that the assessee prayed for withdrawal of the appeal since the matter has been

adjudicated by the Hon'ble Tribunal. However, the Ld. CIT(A) has not considered the request of the assessee and dismissed the appeal of the assessee by disallowing the TDS credit during the impugned assessment year. On this issue, she pleaded that since the direction of the Hon'ble Tribunal in force, the order of the Ld. CIT(A) shall be dismissed as infructuous.

4. Per contra, the Ld. DR relied on the order of the Ld. CIT(A). However, the Ld. DR could not controvert the facts presented by the Ld. AR.

5. We have heard both the parties and perused the orders of the Ld. Revenue Authorities including the order of the Tribunal dated 25/11/2024. It is an undisputed fact that the Tribunal in its order dated 25/11/2024 has directed the Ld. AO to allow the TDS credit of Rs. 13,98,345/- during the impugned assessment year subject to verification. Relevant portion of the Tribunal's order (supra) is extracted herein below:

"16. We have heard both the sides and perused the material available on record. It is an undisputed fact that the tax was deducted for the income admitted by the assessee during the A.Y. 2018-19 which was remitted to the Government account during the subsequent A.Y. Thus, the assessee lost the opportunity to claim the credit for TDS since it was not appearing in Form 26AS for the A.Y. 2018-19 at the time of filing the return of income for the A.Y. 2018-19. Subsequently, these credits were appearing in the Form 26AS for the A.Y. 2018-19 which enabled the assessee to claim the

credit for tax while filing the return of income for the A.Y.2021-22. We are of the view that there cannot be unjust enrichment to the revenue arising out of the technical default or delay in deduction / deposit of tax at source by a third party. We therefore direct the Ld. AO to verify the claim made by the assessee during the A.Y. 2021-22 for the claim of tax deducted at source pertaining to A.Y.2018-19 and thereby allow the same, if found genuine. Accordingly, this ground raised by the assessee is allowed for statistical purposes.”

6. However, we find that the Ld. CIT(A) without considering the decision of the Tribunal has dismissed the appeal filed by the assessee against the order U/s. 154 of the Act. In these circumstances, we find that the order of the Ld. CIT(A) has no legs to stand since the Tribunal has already adjudicated the matter in favour of the assessee. We therefore set-aside the order of the Ld. CIT(A) by treating it as unsustainable in law. Accordingly, grounds raised by the assessee are allowed.

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

Pronounced in the open Court on 04th September, 2025.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

उपाध्यक्ष /VICE PRESIDENT

Dated :04/09/2025

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – 3F Industries Limited, P.B. No. 15, Tanuku Road, Tadepalligudem, West Godavari District, Andhra Pradesh-534102
2. राजस्व/The Revenue –ACIT, Circle-1, Rajamahendravaram.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals),
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam