

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**GUWAHATI BENCH, GUWAHATI**  
**(VIRTUAL HEARING AT KOLKATA)**

**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**  
**SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 66/GTY/2025**  
**Assessment Year: 2019-20**

**Assam Gas Company Limited,**

Duliajan, Assam - 786602

[PAN: AABCA6977C]

.....**Appellant**

**vs.**

**DCIT/ACIT, Circle 1 /DBR,**

Aayakar Bhawan,

Chowkidinghee, Assam - 786003

..... **Respondent**

**Appearances by:**

Assessee represented by

: R.K. Choudhary, FCA

Department represented by

: Kausik Ray, JCIT

Date of concluding the hearing

: 08.10.2025

Date of pronouncing the order

: 16.10.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. The present appeal arises from the order under Section 250 of Income Tax Act, 1961 (hereafter “the Act”) passed by the Ld. Additional/Joint Commissioner of Income Tax (Appeals)-2, NOIDA [hereafter “the Ld. Addl./JCIT(A)”], dated 27.01.2025.

2 In this case, the assessee had claimed deduction for bonus payment u/s 43B of the Act on the ground that all legally permissible timelines were complied with. Secondly, the claim for TDS credit was denied on the grounds of mis-match in Form 26AS. These were adversely dealt with by

the Ld. AO-CPC u/s 143(1) of the Act, prompting the assessee to approach the CIT(A), where he could not succeed on the basis of the following findings:

*“4.2 Ground 2: Disallowance of Bonus Paid to Employees under Section 43B*

*4.2.1 The appellant has contested the disallowance of Rs. 1,10,43,057 under Section 43B of the Income-tax Act, 1961. The appellant claims that the bonus was paid by 30th October 2019, which was the extended due date for filing the return under Section 139(1), and therefore, the disallowance is unwarranted.*

*4.2.2 in support of this claim, the appellant has submitted ledger accounts, payment vouchers, and a Chartered Accountant's certificate dated 25th December 2024, to substantiate that the payments were made within the stipulated timeframe.*

*4.2.3 However, it is seen that the Tax Audit Report filed with the original return explicitly mentions that the bonus provision remained unpaid as of the original return filing date of 30th September 2019. The other fact is that the extended return filing date does not affect the statutory requirement under Section 43B for payments to be made by the due date.*

*4.2.4 Upon examination, it is observed that the Tax Audit Report clearly states that the provision for bonus was unpaid as of the original due date of 30th September 2019. The appellant did not submit a revised Tax Audit Report to reflect the payments allegedly made within the extended date. This omission undermines the credibility of the appellant's claim.*

*4.2.5 The Supreme Court, in CIT v. Alom Extrusions Ltd. (2009), has held that the provisions of Section 43B must be strictly complied with. Similarly, the Bombay High Court in CIT v Hindustan Organics Chemicals Ltd. (2014) has clarified that the extended due date for filing the return does not override the deadline for making payments under Section 438.*

*4.2.6 The appellant's reliance on a Chartered Accountant's certificate dated 25th December 2024 is misplaced. A certificate prepared long after the filing of the return and the issuance of the assessment order cannot be considered conclusive evidence. Moreover, the appellant's failure to file a revised return under Section 139(5) further weakens its case.*

*4.2.7 It is also pertinent to note that the legislative intent of Section 438 is to ensure timely compliance with payment obligations. The appellant's argument that the extended due date should apply is not supported by any statutory provision or judicial precedent*

*4.2.8 Based on the above findings, it is held that the disallowance of Rs. 1,10,43,057 under Section 43B was correctly made. Accordingly, this ground of appeal is rejected.*

*4.3 Ground 3: Disallowance of TDS Credit*

*4.3.1 The appellant has challenged the disallowance of Tax Deducted at Source*

(TDS) credit amounting to Rs. 4,98,09,173. The appellant claims that the TDS credit was correctly claimed in the return based on Form 26AS as extracted from the TRACES Portal at the time of filing. The appellant argues that the disallowance by the CPC was erroneous and requests that the credit be allowed in full.

4.3.2 The appellant has submitted that due to the large size of the TDS statement for the assessment year, the download request from the TRACES Portal was delayed, which resulted in the mismatch noted by the CPC. The appellant has provided details of TDS credits as recorded in its Form 26AS, along with prior-year data showing that similar claims were allowed without dispute.

4.3.3 The CPC apparently disallowed the TDS credit due to mismatches between the details filed by the appellant and the information available in the system. It is contended that the onus is on the appellant to ensure that all claims are fully reconciled and supported by valid evidence at the time of filing the return.

4.3.4 Upon analysis, it is evident that the appellant has relied on records from Form 26AS to substantiate its claim. The appellant's contention that delays in downloading the complete TDS statement caused the mismatch appears plausible. Furthermore, the appellant has demonstrated a history of similar claims being allowed in prior years, which supports its argument for the genuineness of the current claim.

4.3.5 The Supreme Court in *CIT v. Annamalai Finance Ltd.* (2005) 275 ITR 451 (SC) has held that TDS credit must be allowed if the claim is supported by valid evidence and the deductor has duly deposited the tax with the government. Similarly, the Delhi High Court in *Court on its Own Motion v. CIT* (2013) 352 ITR 273 (Del) emphasized the importance of ensuring that genuine TDS credits are not denied due to technical mismatches.

4.3.6 Given the above, it is reasonable to allow the appellant's claim for TDS credit, subject to verification. The AO is directed to verify the details provided by the appellant with the TRACES Portal records/ 25 AS. If the appellant's claim is found to be accurate, the claimed credit should be granted.

4.3.7 Decision

*This ground of appeal is allowed, subject to verification of the appellant's claim by the Assessing Officer."*

2.1 Aggrieved with this action, the assessee has approached the ITAT with the following grounds:

"1. For that the judgement of the Hon'ble Supreme Court in *Goetze (India) Limited vs. CIT* (2006) 284 ITR 323 (SC) was stated to be distinguished while delivering the Judgement by Hon'ble 1 Kerala High Court in the case of *Raghavan Nair vs ACIT & Anr.* (2018) 402 ITR 400 (KER.) following Judgement delivered in the case of *CIT vs. Shelly Products & Anr.* (2003) 261 ITR (SC) 367.

2. For that the Ld. CIT(A) referred Judgement of Hon'ble Supreme Court in *CIT vs Alom Extrusions Limited* (2009) wherein it was decided that the provisions of

*Section 43B must be strictly complied with and the appellant strictly followed the provisions of Section 43B and the further addition, if any, should be restricted to Rs. 29,230 only.*

*3. For that the Ld. CIT(A) further referred to the Judgment of Hon'ble Bombay High Court in CIT vs Hindustan Organics Chemicals Ltd (2014) highlighting the fact that extended due date for filing the Return does not override the deadlines for making payment u/s 43B. Here it won't be out of place to submit that the said case refers to Clause (va) of subsection (1) of Section 36 i.e. regarding PF etc. to be read with Section 2(24)(x), whereas, in our case Clause (ii) of subsection (1) of Section 36 is applicable i.e. related to Bonus to employees and the related Bonus was strictly paid within the time allowed u/s 43B to be read with first proviso thereto. Hence, the case is distinguished.*

*4. For that our Return of Income was filed within extended due date 31.10.2019 i.e. on 26.10.2019 u/s 139(1) of the IT Act, 1961, and in view of this, we strictly followed the requirements of Section 43B to be read with Clause (ii) of subsection (1) of Section 36 and the Judgement delivered by the (a) Hon'ble 4 ITAT Pune Bench 'B' between Sharp Aluminium vs ACIT (2024) 162 taxmann.com 74 (Pune-Trib) and further judgement of (b) Hon'ble Delhi High Court in CIT, Central-II, New Delhi vs Narendra Anand (2011) 198 taxmann.com 51 Delhi endorses our said view.*

*5. For that other ground/ grounds of appeal may kindly be allowed either at the time of hearing or before.*

*6. That the impugned order passed u/s 143(1) by Ld. ADIT(CPC) 6 Bengaluru for Assessment year under reference is bad in law as well as in facts.*

*7. That the impugned order passed u/s 250 by Ld. CTT(A)/ADDL/JCIT(A): Noida for Assessment year under reference is also bad in law as well as in facts as far as allowability of Bonus paid Rs. 1,10,43,057 is concerned.*

*8. For that the bonus to employees amounting to Rs. 1,10,43,057 was paid within the time allowed u/s 43B i.e. IT Return Filing date allowed u/s 139(1) and need be allowed.*

*9. For that as against provision for Bonus kept for Rs. 1,15,00,000 for the year ended 31.03.2019 a sum of Rs. 1,10,43,057 was paid 9 upto 30.10.2019 i.e. within time allowed for filing Return of Income u/s 139(1) of the IT Act, 1961 and disallowance, if any, stands at Rs. 4,56,943*

*10. For that while filing Return of Income u/s 139(1) on dated 26.10.2019, a sum of Rs. 4,27,713 was disallowed u/s 43B as against disallowable Rs. 4,56,943 as above and further disallowance, if any, should have been Rs. 29,230 only. The facts were duly communicated to the Ld. CIT(A) while filing online submission on dated 07.01.2025 which should have been considered by the Ld. CIT(A).”*

3. Before us, the Ld. AR pointed out that the facts presented before the lower authorities were completely ignored, including the Chartered Accountant's Certificate (placed at page 39 of the paper book). Thus, the compliance of section 43B of the Act was duly made and unfortunately the

Ld. AO has not given any credit for that. Regarding the disallowance of TDS credit, it was averred that the Ld. AO has disregarded the documents available with the assessee and has mechanically gone by the Form 26AS figures.

3.1 The Ld. AR relied on the orders of the authorities below.

4. We have considered the rival submissions and have gone through the documents before us, including the detailed paper book filed by the Ld. AR. We find that prima facie the assessee has a case in his favour regarding the payment of bonus as far as the provisions of section 43B of the Act are concerned. Secondly, it is felt that the assessee must be given a chance to present the documents available for correct credit of TDS. For these reasons, we deem it fit to set aside the impugned order and remand both the issues back to the file of Ld. AO for appropriate decisions after giving an opportunity to the assessee for presenting the documents available with him.

5. In result, this appeal is allowed for statistical purposes.

Order pronounced on 16.10.2025

Sd/-  
**[Manomohan Das]**  
**Judicial Member**

Sd/-  
**[Sanjay Awasthi]**  
**Accountant Member**

Dated: 16.10.2025  
AK, Sr. PS

*Copy of the order forwarded to:*

1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

*//True copy//*

By order

Assistant Registrar, Kolkata Benches