

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2011/Chny/2025  
निर्धारण वर्ष /Assessment Year: 2021-22

Cosmopolitan Club,  
Post Boz 371, 63 Anna Salai,  
Chennai – 600 002.  
PAN: AAACC 8636P

**Vs.** The Dy. Commissioner of  
Income Tax,  
Corporate Circle-1(1),  
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri N. Arjun Raj, C.A  
: Shri R. Anitha, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 14.10.2025

घोषणा की तारीख /Date of Pronouncement

: 30.10.2025

**आदेश / ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2021-22 arises out of the order of Learned Commissioner of Income Tax, Appeal, Addl./JCIT(A)-7, Mumbai [hereinafter "Addl. CIT(A)"] dated 03.07.2025.

2. The effective ground of appeal in this appeal is against not granting credit of TDS to the tune of Rs. 1,38,127/- in the order passed

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u/s. 154 r.w.s 143(1) of the Income-tax Act, 1961 (hereinafter “the Act”) by Centralized Processing Centre, Bengaluru (hereinafter “CPC).

3. The assessee is a club and filed its return of income declaring total income of Rs. 1,19,32,733/-. The assessee has claimed TDS of Rs. 9,29,585/- in the return of income which was restricted to Rs.8,14,583/- by CPC, vide intimation dated 17.08.2020. Subsequently, vide order dated 23.08.2022 of CPC, the full claim was allowed. However, again vide order dated 02.02.2024, the claim of TDS was restricted to Rs.7,91,458/- for the reason that the assessee has offered a total receipts only of Rs.1,15,87,573/- in the return of income, but in Form-26AS,the total receipts shows at Rs.1,36,06,731/- . The CPC thus allowed TDS credit only in respect of bank interest which has been offered as income in the return of income. Aggrieved, the assessee preferred an appeal before Ld. CIT(A). On appeal, the Ld. CIT(A) confirmed the action of CPC in allowing TDS credit only in respect to income shown in the return of income after relying on Rule 37BA(3)(i) and r.w.s 199 of the Act. The assessee has explained that it has shown income of Rs. 1,19,09,476/- in the return of income as against receipts of Rs.1,36,17,371/- shown in the Form-26AS as the following receipt of which TDS was deducted was relating to

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membership fee, taxable as the income for the principle of mutuality as under:

<i>Sungwood Hitech India Pvt. Ltd.</i>	<i>5,47,469</i>
<i>Sungwood Stamping Pvt. Ltd.</i>	<i>3,16,867</i>
<i>Lotte India Corporation Ltd.</i>	<i>7,14,818</i>
<i>Corporate Members Banks Several</i>	<i>1,28,741</i>

4. The Ld. Authorized Representative (A.R.) of the assessee submitted that although the membership fees are not taxable due to the principle of mutuality, TDS had been deducted by the members, and therefore, the assessee is eligible for corresponding TDS credit. It was further submitted that the reliance placed by the authorities on Rule 37BA(3)(i) is misplaced, as the said rule applies to situations where income is assessable in a different year. In the present case, the income was assessable in the current year itself but was excluded from total income on account of the principle of mutuality hence, the rule has no application. In support, the Ld. A.R. placed reliance on the decision of the ITAT, Chennai in the case of *K. Ventesan (HUF) v. ACIT [2025] 147 taxmann.com 449 (Chennai-Trib.)*.

5. The Ld. Departmental Representative (D.R.), on the other hand, supported the order of the Ld. Addl. CIT(A) and submitted that it is evident from the return of income that the membership fees were

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shown under the Schedule-EI (Exempt Income) as not chargeable to tax. Therefore, the Ld. D.R. distinguished the facts of the present case from those in the case of *K. Ventesan (HUF)* (supra).

6. We have heard the rival submissions and perused the material available on record. The CPC has denied TDS credit due to a mismatch between the income offered in the return and the receipts reflected in Form 26AS. The assessee has explained the difference, stating that the membership fees received from members were not offered to tax because of the principle of mutuality, although TDS had been deducted by the Members. The Ld. Addl. CIT(A), relying on Rule 37BA(3)(i), held that TDS credit cannot be allowed where the corresponding income is not included in the return. However, we find that Rule 37BA(3)(i) pertains to granting TDS credit in the assessment year in which the corresponding income is assessable. In the present case, the income was assessable in the current year itself, but was not taxed solely because of the principle of mutuality. It is not a case where such income pertains to another assessment year. The Coordinate Bench of the Tribunal in the case of *K. Ventesan (HUF) v. ACIT* (supra) has clearly held that merely because the income is exempt, the TDS credit in respect of such income cannot be denied.

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Respectfully following the said decision, we direct the Assessing Officer to allow the credit of TDS to the assessee after due verification.

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

*Order pronounced on 30<sup>th</sup> day of October, 2025 at Chennai.*

**Sd/-**  
**(मनु कुमार गिरि)**  
**(Manu Kumar Giri)**  
**न्यायिक सदस्य / Judicial Member**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**  
**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 30<sup>th</sup> October, 2025.

EDN, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF