

# IN THE INCOME TAX APPELLATE TRIBUNAL, DIVISION BENCH, JODHPUR

HEARING THROUGH: VIRTUAL MODE

**BEFORE: SHRI. LALIET KUMAR, JM & DR. MITHA LAL MEENA, AM**

ITA No. 786/Jodh/ 2024  
Assessment Year: 2023-24

The Asst. CIT Circle-2, Udaipur-313001 Rajasthan	Vs.	Ravi Infrabuild Projects Ltd. 95, Hiran Magri Sector-11 Udaipur-313001, Rajasthan
PAN NO: AAECR2780H		
Appellant		Respondent

Assessee by : Shri Amit Kothari, C.A  
Revenue by : Shri Arvind Kumar Gehlot, Addl. CIT DR  
Date of Hearing : 09/10/2025  
Date of Pronouncement : 30/10/2025

## आदेश/Order

### **PER LALIET KUMAR, J.M:**

This appeal by the revenue against the order dated 29.08.2024 passed by the Ld. CIT, Appeal Addl/JCIT(A)-4, Delhi under section 250 of the Income-tax Act, 1961, for the Assessment Year 2023-24, whereby relief was granted to the assessee in respect of the disallowance of TDS credit under section 143(1) by CPC, Bengaluru.

2. In the present appeal Revenue has raised sole ground which read as under:

" Whether on the facts and circumstances of the case, the Ld. CIT(A), NFAC, Delhi was justified in allowing the appeal of assessee, by directing the AO to allow the credit of TDS, amounting to Rs. 11679163/- despite the fact that the corresponding income / receipt had been offered / accounted for in the preceding assessment year and not in the AY under consideration. It is worthwhile to mention that Rule 37BA(3)(i) which says:- "Credit for tax deducted at source and paid to the Central Government shall be given for the assessment year for which such income is assessable."

3. Briefly, the facts of the case are that the assessee-company, engaged in infrastructure contracts, filed its return of income for AY 2023-24 declaring total income of Rs.135,05,48,460/-. While processing under section

143(1), CPC restricted TDS/TCS credit on account of a mismatch between the turnover declared in the return and the gross receipts reported in Form 26AS.

4. Before the CIT(A), the assessee submitted that certain invoices were raised in March 2022 (relevant to AY 2022-23) and the income therefrom was already offered to tax in that year; however, deductors deducted and deposited TDS in April 2022 (FY 2022-23), hence the credit appeared in Form 26AS of the year under appeal. It was also explained that some deductors computed TDS on GST-inclusive amounts, causing a mismatch. Reliance was placed on Rule 37BA(3)(i) and decisions including *NCC Maytas JV v. ACIT* and *ITO v. Adani Vizhinjam Port Pvt. Ltd.*.

4.1 The CIT(A) accepted the assessee's contention and directed the Assessing Officer to allow TDS/TCS credit as per Form 26AS, while avoiding any double credit, proceeding on the footing that TDS/TCS had been duly deducted/collected and deposited and corresponding income had been offered to tax.

5. Feeling aggrieved by the order of Ld. CIT(A) the Revenue is in appeal before us.

6. During the course of hearing the Ld. DR supported CPC's action, contending that Rule 37BA(3)(i) restricts credit to the year in which the related income is assessable, and argued that the CIT(A) granted relief without adequate verification of whether such income was actually included in the earlier year.

7. At hearing, the Ld. AR reiterated that TDS had been deducted in April 2022 (prior to the due date for filing the AY 2023-24 return) and pressed that credit be allowed in this year in view of section 199 read with Rule 37BA

8. We have carefully considered rival submissions and perused the record including the CIT(A) order and Rule 37BA extracts recorded therein.

Section 199(1) mandates that TDS paid to the Central Government is treated as tax payment on behalf of the person from whose income deduction was made; Rule 37BA(3)(i) further provides that credit "shall be given for the assessment year for which such income is assessable," and Rule 37BA(3)(ii) provides for proportionate credit where income is spread over years.

8.1 In the present case, it is born out from the record that

(a) Receipts as per P&L Rs.10,06,46,82,863 vs. Form 26AS Rs.10,67,76,87,489 thus there was difference of Rs.61,30,04,625;

(b) The part difference was due to TDS on GST-inclusive bills (~Rs.53.42 crore); and

(c) Rs.7,88,28,438 pertained to sales booked in FY 2021-22 but TDS deducted in April 2022 (FY 2022-23)

8.2 Despite the above, the CIT(A) has granted full credit primarily based on its reflection in Form 26AS, without a conclusive verification of the year in which the related income was offered to tax, or of the GST-inclusive TDS computation creating a mismatch. The order does not detail invoice-wise reconciliation, dates of deduction, or revenue recognition under the mercantile system. In our view a fresh examination is necessary to apply Rule 37BA correctly and to ensure that:

(i) the income about each TDS item was already offered in the earlier assessment year, if so claimed;

(ii) the TDS was actually deducted/deposited in April 2022, and the consequence of such timing vis-à-vis the year of assessability is duly evaluated; and

(iii) no double credit is granted.

8.3 In view of the above We set aside the order of the CIT(A) and restore the matter to his file for fresh adjudication. The CIT(A) shall carry out a speaking and reasoned determination invoice-wise/year-wise, after affording adequate opportunity to the assessee and considering the AO's reconciliation, on the following lines:

- i. Call for and examine invoices, contract ledgers, revenue-recognition charts, and Form 26AS to establish the year of assessability of each receipt vis-à-vis the corresponding TDS;
  - ii. Deal specifically with the GST-inclusive TDS claims and reconcile with income booked excluding GST; and
  - iii. Apply Rule 37BA(3) strictly—allow credit only in the year in which the income is assessable, or proportionately where applicable—while ensuring no double credit.
9. In the result, the appeal is allowed for statistical purposes.

(Order pronounced in the open Court on 30/10/2025 )

Sd/-

**(DR. MITHA LAL MEENA)**  
**ACCOUNTANT MEMBER**

AG

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, JODHPUR
6. Guard File

Sd/-

**(LALIET KUMAR)**  
**JUDICIAL MEMBER**

आदेशानुसार / By order,  
सहायक पंजीकार / Assistant Registrar