

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 6361/MUM/2025
Assessment Year: 2020-21**

Brig Resolution Services Pvt. Ltd.,
701, 7th floor, Plot No. 170,
Krishna Baug, 8/11 Road, Khar
West,
Mumbai-400052.
PAN NO. AAHCB 8024 H
Appellant

Circle 14(1)(1),
Aayakar Bhavan, Maharshi
Karve Road, New Marine
Lines,
Mumbai-400020.
Respondent

Assessee by : Mr. Sunil Hirawat
Revenue by : Mr. Leyaqt Ali Aafaqui, Sr. DR

Date of Hearing : 01/12/2025
Date of pronouncement : 22/12/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 20.08.2025 passed by the Ld. Additional/Joint Commissioner of Income-tax (Appeals) – 3 Bengaluru [in short ‘the Ld. CIT(A)’] for assessment year 2020-21.

2. Briefly stated, the assessee filed the return of income on 22.01.2021 declaring total income of ₹76,90,890/-. The return was



processed by the Central Processing Centre (CPC) and an intimation was issued under section 143(1) of the Income-tax Act, 1961 (“the Act”) on 25.06.2021. Under the said intimation, credit for tax deducted at source (TDS) was granted at ₹10,84,152/- as against the claim of ₹13,06,152/- made by the assessee in the return.

2.1 The short grant of TDS credit amounting to ₹2,22,000/- was on the ground that the said amount was not reflected in Form No. 26AS for the relevant assessment year. The rectification application filed by the assessee under section 154 of the Act was also rejected.

2.2 The assessee explained that the deductor had deducted and deposited the tax in the subsequent financial year, corresponding to the next assessment year, and further that pursuant to the CBDT Press Release dated 30.05.2020, the rate of TDS had been reduced by 25%. Accordingly, the deductor deposited TDS of ₹1,66,500/- instead of ₹2,22,000/-. The assessee therefore restricted its claim to ₹1,66,500/- only.

2.3 The Ld. CIT(A) acknowledged that the assessee was legally entitled to TDS credit corresponding to the income offered to tax. However, he declined to grant relief on the ground that the TDS credit did not reflect in Form No. 26AS for the relevant year. Emphasis was placed on the system-driven nature of the Department and the need to avoid manual intervention. The Ld. CIT(A) directed that TDS credit could be allowed only after the



deductor filed a correction statement and the credit reflected in the assessee's Form No. 26AS. The appeal was accordingly partly allowed for statistical purposes. The said claim of the assessee was accordingly rejected by the Ld. CIT(A) observing as under:

“5.1.9. However, as has been, mentioned in the proceeding's paras, though the Appellant is legally entitled to get the TDS credit for the income offered to tax, however, owing to the fact that the DEDUCTOR has deducted and deposited the TDS in the A.Y 2021-22 to the tune of Rs. 1,66,500/-, the correct TDS credit is not getting reflected on the 26AS of the Appellant. It may also be noted that the Department is now completely system driven and any anomaly in the returns and forms tends to be noticed and rightly denied by the System. Moreover, for the fault of the DEDUCTOR, it would be unreasonable to keep pushing the onus on to the AO to grant manual TDS credits when the whole emphasis of the Department is to go digital to make things simpler and faster for the benefit of the taxpayers and at the same time prevent any refund related frauds which the manual system is susceptible to. Hence, in view of the above-mentioned facts, the AO is directed to allow the TDS credit to the Appellant only after ensuring that the Deductor has filed the correction statement and the TDS credit gets reflected on the PAN of the Appellant. The Appeal filed on all the grounds stands Partly allowed for statistical purposes.”

3. Before us, the Ld. counsel for the assessee relied upon the decision of the Coordinate Bench in *Sanjeev Rajendra Pandit v. ITO* (ITA Nos. 3004 & 3005/Mum/2022) for Assessment Year 2021-22, wherein an identical issue was examined and appropriate directions were issued for granting TDS credit.

4. We have heard the rival submissions and perused the material on record. The undisputed factual position is that the assessee raised bills on the certain parties and shown the relevant amount as income in the year under consideration following the mercantile



system of account. However, the party to whom the services were rendered, booked expenses in the subsequent year and tax was also deducted in the subsequent year.

4.1 Now, the contention of the assessee, is that the tax which was deducted in the subsequent year credit of the same should be allowed to the assessee in the year under consideration

4.2 Section 199 of the Act, read with Rule 37BA of the Income-tax Rules, 1962, provides that credit for TDS shall be given in the assessment year for which the corresponding income is assessable. The provision seeks to address the inherent timing mismatch between accrual of income and deduction of tax at source.

4.3 But in the instant case, the assessee is seeking credit for the TDS which was not at all deducted and paid by the deductor to the Government account. In such a situation, the two options could be possible. Firstly, the assessee could be granted credit of TDS for the year in which the tax is deducted irrespective of the year in which income is declared. Secondly, the assessee could be allowed credit of TDS in the year in year under consideration but subject to the restriction of the interest as the assessee was subjected to deduction of tax at source on corresponding income but the tax was not deducted by the dedcutor, then the same was required to be paid by assessee way of the advance tax. The identical issue has been decided by the Tribunal in the case of Sanjeev Rajendra Pandit



(supra), the relevant finding of the Co-ordinate Bench is reproduced as under:

6.6 After referring the provisions of the law as well as judicial precedent on the issue, the Ld. CIT(A) concluded that for claiming the benefit of the TDS, the assessee was required to comply, **firstly**, produce TDS certificate, **secondly**, to show that income subjected to TDS is disclosed in return of income of the assessment year as assessable. The relevant finding of the Ld. CIT(A) is reproduced as under:

“5.7 The deduction of tax at source does not necessarily, or is not required to, match alongside the corresponding income, recognition of which by the recipient could be either on accrual or on receipt basis. The accrual of the tax liability on income would arise only on the same being/becoming assessable. There is thus an inherent mismatch, in terms of time, between the payment of tax (per TDS) and the accrual of tax liability against the corresponding income qua the relevant provisions of law. It is in view of and to address this mismatch in time, so that the tax stands deducted while the corresponding income, though accrued has yet to be received or though received, as by way of an advance, is yet to accrue, that the law-per section 199 r/w ss. 190 & 191 and Rule 37BA] clarifies that the credit for the TDS shall be available for the year for which the corresponding income is assessable. It would be evident from plain reading of section 199 of the Act and Rule 37BA of Income Tax rules, 1962 that credit is to be given to the assessee for the amount so deducted in the assessment made under this Act for the assessment year for which Such income is assessable. So important conditions for getting benefit of TDS as per section 199 of the Act are

(a) the assessee should produce the certificate for the amount of tax deducted at source;

(b) show that income subjected to TDS is disclosed in the return of the assessment year as 'assessable'.

Thus, both the above-mentioned conditions are to be satisfied. It is, therefore, clear that the assessee will not be entitled to have benefit or credit for the amount though



mentioned in the certificate for the assessment year if income relatable to the amount is not shown and is not assessable in that assessment year. If instead of entire income referable to amount of tax deducted, only a portion of income is found assessable the benefit has to be allowed only on the portion shown. If balance income, on account of system of accounting followed by the assessee or for some other reason is found to be assessable in future, then the credit for the balance TDS can be allowed only in future when income is assessable. Credit allowed on pro rata basis in the year in which the certificate is issued and also in future where balance or such income is found to be assessable is as per the mandate of provision of section 199 of the Act. Any amount which has not been assessed in any year but referred in the TDS certificate, cannot be claimed under section 199 of the Act.

5.8 Section 199 of the Act has two objectives - one to declare the TDS as payment of tax on behalf of the person on whose behalf the deduction was made and to give credit for the amount so deducted on the production of the certificate in the assessment made for the assessment year for which such income is assessable. The second objective mentioned in section 199 is only to answer the question as to the year in which the credit for TDS shall be given. It links up the credit with assessment year in which such income is assessable. In other words, the Assessing Officer is bound to give credit in the year in which the income is offered to tax. This section 199 does not empower the Assessing Officer to determine the year of assessability of the income itself but it only mandates the year in which the credit is to be given on the basis of the certificate furnished. In other words, when the assessee produces the certificates of TDS, the Assessing Officer is required to verify whether the assessee has offered the income pertained to the certificate before giving credit. If he finds that the income of the certificate is not shown, the Assessing Officer has not only to give the credit for TDS in that assessment year and has to defer the credit being given to the year in which the income to be assessed. It does not have any mandate to allow credit even where TDS is not deducted but to be deducted in future.”



6.7 We find that though the Ld. CIT(A) has referred to the provisions of the law and Rules thereon, however, he did not considered the request of the assessee for allowing credit that either in the year under consideration or in the subsequent assessment year. We are of the opinion that the deductor has been authorized by the Department to deduct tax at source on the income of the assessee and deposit into Government account. The credit of same has to be allowed to the assessee as per the provisions of the law and the Rules made thereunder and the Department cannot simply deny that no credit shall be granted because in the year in which assessee offered income, tax has not been deducted and not appearing Form No. 26AS, whereas in subsequent assessment year TDS is appearing in Form No. 26AS, but corresponding income is not reflecting there. The Department cannot swallow tax paid by the assessee and deny credit of tax deducted, which pertains to the assessee. In the instant case, the assessee has offered the income following the accrual system. As far as rental income is concerned, if tax has been deducted and deposited in subsequent year, the assessee should be allowed credit of same in the year under consideration of tax which has been deducted subsequently. However, the assessee could not be allowed the benefit of the interest on refund which arise if any on account of credit of tax deducted and deposit in the subsequent assessment year. We accordingly set aside the finding of the Ld. CIT(A) on the issue-in-dispute and direct the Ld. Assessing Officer to verify the amount of tax deducted and deposited in respect of income from rental property which has been shown by the assessee in the year under consideration and allow the credit as directed above. As far as TDS credit in respect of divided income is concerned the assessee is directed to furnish TDS certificate issued by the deductor and the Ld. Assessing Officer is directed to allow the credit of the said TDS after due verification. The Assessing Officer cannot simply decline the credit of TDS and he is bound to verify TDS certificate issue in accordance with provisions of law. Further, the Assessing Officer is also directed to verify if any relief has already been granted in the rectification application filed by the assessee. If so then further benefit of TDS credit may not be allowed. In view of the our direction above, the



grounds of appeal of the assessee are accordingly allowed for statistical purposes.

4.4 Accordingly, respectfully following the finding of the Co-ordinate Bench, the issue in dispute is restored back to the file of the Assessing Officer for allowing the credit of the TDS to the assessee in accordance with law after due verification .

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22/12/2025.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 22/12/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai