

आयकर अपीलीय अधिकरण 'डी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.779/Chny/2020**
(निर्धारण वर्ष / **Assessment Year: 2018-19**)

M/s. N.C. Rajagopal & Co. 22, Krishnaswamy Avenue, Luz Church Road, Mylapore, Chennai – 600 004.	बनाम/ Vs.	DCIT, CPC, Bengaluru.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAFFN-0572-A		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri G. Baskar (Advocate) & Shri I. Dinesh (Advocate)– Ld. ARs
प्रत्यर्थी की ओरसे/Respondent by	:	Shri G. Johnson (Addl. CIT) –Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	05-05-2022
घोषणा की तारीख / Date of Pronouncement	:	12-05-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of the order of learned Commissioner of Income Tax (Appeals)-2, Chennai [CIT(A)] dated 27.08.2020 in the matter of intimation issued by Centralized Processing Center, Bengaluru (CPC) u/s 143(1) on 16.05.2019.

2.1 One of the grievances of the assessee is short credit of Tax Deducted at Source (TDS). Upon perusal of intimation issued by CPC, it could be gathered that the assessee has been allowed TDS credit of Rs.46,11,838/- as against the claim of Rs.50,60,077/-. The difference of Rs.4,48,239/- represent TDS brought forward from earlier years which has been claimed in this year. The details of the same have been placed on page no.56 of the paper-book. The assessee is a firm of Chartered Accountant and follows cash system of accounting.

2.2 During appellate proceedings, the assessee submitted that the receipts have been offered on cash basis and therefore, TDS credit would be available as per Sec.199 of the Act i.e., in the year in which the respective receipts are offered to tax. In support, the assessee also filed statement showing TDS credit available from AYs 2014-15 to 2018-19. However, Ld. CIT(A) held that TDS credit could be given only to the extent of TDS as available in Form 26AS of the relevant year. Aggrieved, the assessee is in further appeal before us.

2.3 We find that Ld. CIT(A) has completely overlooked the fact that the assessee was following cash system of accounting and the TDS credit would be available in accordance with the provisions of Sec.199 of the Act i.e., in the year in which the respective receipts are offered to tax. In support of the claim, the assessee has filed complete statement showing TDS credit available from AYs 2014-15 to 2018-19. The assessee has to be allowed unclaimed TDS of earlier years and there is no justification to restrict the credit only to the extent to which it is available in Form 26AS of this year. The Ld. CIT(A) is directed to verify the statement and allow TDS credit in accordance with law. This ground stand allowed for statistical purposes.

3.1 Another issue is disallowance of club subscription for Rs.2,76,882/- as reported in Tax Audit Report. The CPC disallowed the same while computing the income of the assessee. Before Ld. CIT(A), it was submitted that the expenditure was allowable u/s 37(1). However, Ld. CIT(A) denied the same. Aggrieved, the assessee is in further appeal before us.

3.2 we find that similar issue arose in assessee's own case for AY 2017-18 vide ITA No.817/Chny/2020 Tribunal order dated 09.03.2022 wherein the matter has been restored back to the file of Ld. AO to verify the claim of the assessee that the expenditure was for the purpose of business. Taking a consistent stand, we direct Ld. CIT(A) to verify the claim of the assessee that the expenditure fulfill the condition of Sec.37(1). If so, the deduction of the same would be available to the assessee. This ground stand allowed for statistical purposes.

4. The appeal stand allowed for statistical purposes.

Order pronounced on 12th May, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 12-05-2022
EDN/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF