



**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.2572/Bang/2024
Assessment Year: 2023-24

Baderunnisa, #A002, SAF Snowdrops, Mango Garden, Konanakunte Cross, Bengaluru.  <b>PAN – CZCPB 6014 J</b>	Vs.	The Dy. Director of Income Tax (CPC) Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Mohammad Taher Shaikh, CA
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Dept. (DR)

Date of hearing	:	04.03.2025
Date of Pronouncement	:	05.05.2025

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed by the Addl/JCIT(A)-6, Mumbai dated 24/10/2024 in DIN No. ITBA/APL/S/250/2024-25/1069910241(1) for the assessment year 2023-24.

2. The effective issue raised by the assessee is that the learned CIT(A) without the considering the submission made during appellate

proceeding confirmed the action of the CPC by not providing the credit of entire TDS on sale of property.

3. The relevant facts are that the assessee is an individual. The assessee, after the death of her husband, inherited a house property along with 4 sons and a daughter. As per Muslim religious practice the property was inherited in the following ratio among the legal heirs.

S. No.	Name of legal heir	Relation	Ratio
1.	Baderunnisa (appellant assessee)	Wife	12.50%
2.	Mubeen Ahmed	Son	19.44%
3.	Amin Ahmed	Son	19.44%
4.	Moin Ahmed	Son	19.44%
5.	Momin Ahmed	Son	19.44%
6.	Firdose Ziauddin	Daughter	9.74%

4. During the year under consideration, the impugned house property was sold for a consideration of Rs. 2 crores. The appellant assessee claimed that entire sale consideration was received in her bank account only after deduction of TDS amounting to Rs. 2 Lakh only in her name only. As per the assessee, she computed the capital gain on the sale of the property along tax liability and the liability was distributed among the legal heirs in their inheritance ratio. Accordingly, individual tax liability was paid through payment of advance tax. The other legal heirs made full payment of their tax liability without claiming the credit of TDS. Therefore, the entire TDS credit was claimed by her in the return of income filed as on 03-07-2023.

5. The return of income of the assessee was processed by the CPC and the intimation order under section 143(1) of the Act was generated as on 12-01-2024 where the CPC accepted the returned income but allowed the claim of TDS credit only to the proportion of capital gain offered by the assessee. Thereby, the CPC disallowed the claim of TDS credit for Rs. 1,73,516/- only.

6. The aggrieved assessee preferred an appeal before the learned CIT(A) who dismissed the assessee's appeal by holding as under:

*4.3 It is seen from the submission that though the deductor had deducted the TDS in the name of the appellant however, the income to the extent of 87.5% of sale consideration was assessable in the hands of other co-owners. As reproduced above, Rule 37BA(2) specifically provides for such kind of scenario. As the total deduction has been incorrectly made in the name of the appellant, she was required to file a declaration with the deductor for issuing the certificates in the name of the correct deductees. Furthermore, section 199 read with Rule 37BA specifically provides for giving credit for the tax deducted at source to the extent the corresponding income is offered to tax. As the AO, CPC has restricted the TDS credit in accordance with provisions of section 199 r.w.r. 37BA, I found no infirmity in the order of the AO, CPC. This ground of appeal is therefore, dismissed.*

7. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before the Tribunal.

8. The learned AR before me filed paper book running from pages 1 to 81 and inter alia submitted that the Deputy Director of Income-tax, CPC, Bengaluru ("the AO") erred in restricting the credit of TDS on the sale consideration of the immovable property to the extent of the assessee's share, without appreciating that the other legal heirs had paid advance tax on their respective capital gains.

9. The learned AR further argued that the learned CIT(A) also erred in confirming the denial of full TDS credit. The Id. AR contended that the assessee had received the entire sale consideration in her bank account as a condition of sale by the buyer, who accordingly deducted TDS under section 194IA of the Act and issued the TDS certificate in her name. The assessee had computed the capital gains on the property and paid advance tax on behalf of other legal heirs as well. The remaining net amount after tax was distributed to each legal heir. Based on these facts, the AR asserted that the appellant rightly claimed the credit for the entire TDS amount against her tax liability, and the same should be allowed in full, since the entire transaction and tax responsibility initially rested with her before being equitably settled among the heirs.

10. The learned DR, on the other hand, before me argued that the property in dispute was owned by the family members jointly. Therefore, the credit of TDS amount should also be given jointly in their respective name instead of one single party. The Id. DR vehemently supported the order of the authorities below.

11. I have heard the rival contentions of both the parties and perused the materials placed on record. It is an undisputed fact that the entire sale consideration was deposited into the bank account of the assessee, and the TDS was deducted and reflected in her name alone. This arrangement was in consequence of the buyer's condition, and the deduction of TDS was appropriately made under section 194-IA of the Act. The assessee, in turn, discharged the capital gains tax liability in full, not only for herself but also on behalf of the other legal heirs, followed by appropriate distribution of the net proceeds. The advance

tax payments were made by the co-owners towards their respective shares, clearly evidencing that the income has been duly offered to tax in accordance with their respective ownership ratios. Rule 37BA(2) read with section 199 of the Act, while governing the apportionment of TDS credit, also mandates that the credit shall be given to the person in whose name the deduction is made, provided the income is assessed accordingly. In the instant case, the revenue has not disputed the correctness of income offered or the tax paid by the other legal heirs. In such a scenario, the denial of full TDS credit to the assessee merely on technical grounds, especially when she bore the initial tax burden and complied in substance with the law, cannot be sustained. I, thus, find merit in the plea of the assessee and direct the department to allow the credit for the entire TDS amount as claimed. Accordingly, the order of the Id. CIT(A) is set aside, and the ground of appeal of the assessee is allowed.

12. In the result appeal of the assessee is allowed.

Order pronounced in court on 5<sup>th</sup> day of May, 2025

**Sd/-**  
**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 5<sup>th</sup> May, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore