आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad 'A' Bench, Hyderabad

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य

SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

AND

SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./**I.T.A. No.1618/Hyd/2025**

(निर्धारणवर्ष**/ Assessment Year:2020-21)**

R.K. Distilleries Private Limited, Hyderabad. PAN: AAFCR1091L	*VS.*	Income Tax Officer, Ward-3(1), Hyderabad.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri Preetham Mahankali, CA
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Shri D. Praveen, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	23/03/2026
घोषणा की तारीख/ Date of Pronouncement	:	27/03/2026

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee company is directed against the order passed by the Addl/Joint Commissioner of Income Tax (Appeals)-1, Nashik, dated 05/08/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 154 of the Income Tax Act, 1961 (for short, "the Act"), dated

17/10/2022 for the Assessment Year (AY) 2020-21. The assessee company has assailed the impugned order of the CIT(A) on the following grounds of appeal:

1. That on the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in confirming the denial of TDS credit of 28,12,189/- pertaining to services rendered and income offered by the appellant in A.Y. 2020-21.

2. The Appellant has offered income in AY 2020-21 (FY 2019-20) and claimed TDS on the same in AY 2020-21 itself as per provisions of Sec 199 read with Rule 37BA sub-rule (3).

3. The deductor seems to have claimed expense in the subsequent year ie, AY 2021-22 & deducted tax in the subsequent year. The appellant has not claimed TDS credit in the subsequent year as it was already availed in previous year. Hence the difference.

4. That the Learned CIT(A) failed to appreciate that the appellant had raised invoice for bottling services on 31.03.2020, duly offered the same income to tax in A.Y. 2020-21 as per the mercantile system of accounting, and therefore was entitled to TDS credit in the same year, in terms of Section 199 read with Rule 37BA(3) of the Income-tax Rules, 1962.

5. That the Learned CIT(A) erred in holding that TDS credit could not be allowed merely because the deductor accounted for the expenditure and deducted tax in the subsequent year, ignoring the settled principle that TDS credit is to be given in the year in which the related income is assessable.

6. That the Learned CIT(A) erred in not appreciating that denial of TDS credit in the year of taxability of income results in double taxation and is contrary to the scheme of Chapter XVII-B of the Act.

7. That the Learned CIT(A) ought to have directed the grant of due TDS credit in A.Y. 2020-21 and erred in upholding the action of CPC Bengaluru in restricting the credit to amounts reflected in Farm 26AS, without examining the substantive entitlement of the assessee.

8. The appellant may add, alter, amend or withdraw any of the above grounds at the time of hearing."

2. Succinctly stated, the assessee company, which is engaged in the business of manufacturing of IMFL, had filed its return of income for

AY 2020-21 on 29/12/2020, declaring an income of Rs. 1,66,47,890/-. The return of income filed by the assessee company was processed by the AO/CPC, Bangaluru, vide its order under section 143(1) of the Act, wherein based on a mismatch in the tax deducted at source (TDS) as claimed by the assessee company as against that disclosed in its Form-26AS, an additional demand of Rs.13,15,270/- was raised.

3. The assessee company filed an application under section 154 of the Act, dated 29/12/2020, which, however, was rejected by the AO/CPC, Bangalore vide his order, dated 12/04/2022.

4. The assessee company aggrieved with the order passed by the AO/CPC, Bangalore, under section 154 of the Act, dated 12/04/2022, has carried the matter in appeal before the CIT(A), but without success.

5. The assessee company, aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

6. Shri Preetham Mahankali, CA, Learned Authorised Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal, submitted that both the lower authorities have erred in raising/sustaining the additional demand of Rs. 13,51,270/- in the hands of the assessee company. Elaborating on his contention, the Ld. AR submitted that the assessee company, which had provided the services of bottling of IMFL to M/s. Pernod Ricard India Private Limited had, in the month of March 2020, raised, on the said concern, an

invoice of Rs. 5,40,94,027/-. The Ld. AR submitted that the assessee company had accounted for the aforesaid transaction in its books of accounts for the subject year and accordingly claimed the correct TDS. Elaborating further, the Ld. AR submitted that the aforesaid concern, viz., M/s. Pernod Ricard India Private Limited (in short, "PRIPL)), i.e., the deductor had accounted for the aforesaid invoices in the subsequent financial year and deducted the tax at source (TDS) in the subsequent financial year. The Ld. AR submitted that for the aforesaid reason, there has been a mismatch of TDS as was claimed by the assessee company as against that in Form-26AS. Carrying his contention further, the Ld. AR submitted that the assessee company had filed an application for rectification under section 154 of the Act with AO/CPC, Bangaluru, which, however, was rejected vide order, dated 12/04/2022. The Ld. AR submitted that the CIT(A) had though accepted the claim of the assessee company that the mismatch in TDS was for the reason that while for the assessee company had declared the subject income during the year under consideration, i.e., AY 2020-21, but the deductor, viz., PRIPL had accounted for the said transaction and deducted the tax at source (TDS) in AY 2021-22. The Ld. AR submitted that the controversy involved in the present appeal finds its genesis in the observation of the CIT(A), wherein he had observed that the deductor, viz., PRIPL should revise its return of income so that the credit of the subject TDS in the account of the assessee company

appears in Form-26AS. The Ld. AR submitted that a similar issue had come up before the ITAT, "G" Bench, Mumbai in M/s. Greatship (India) Limited vs. DCIT, ITA No.5562/Mum/2018, wherein the Tribunal, after referring to section 199(3) r.w. Rule 37BA of the Act, had observed that the credit for the tax deducted at source has to be allowed to the assessee in the year in which the correlating income is assessable. The Ld. AR submitted that the Tribunal, based on its aforesaid conviction, had directed the AO to allow the credit of the short/deficit TDS to the assessee in the year in which the corresponding income was accounted for by it. The Ld. AR submitted that, as in the present case, the assessee company has accounted for the income in the year relevant to the AY 2020-21, therefore, the AO be directed to allow the credit of the corresponding TDS in the said year.

7. Per contra, Shri D. Praveen, Learned Senior Departmental Representative (for short, "Ld. Sr-DR") relied upon the orders of the authorities below.

8. We have given thoughtful consideration to the contentions advanced by the Learned Authorised Representatives of both parties in the backdrop of the orders of the authorities below.

9. We find that a similar issue was involved in the case before the ITAT, "G" Bench, Mumbai in the case of M/s. Greatship (India) Limited vs. DCIT, ITA No.5562/Mum/2018 (AY 2015-16), dated 08/01/2020. The

Tribunal, after necessary deliberations, had directed the AO to allow the credit of the TDS in the year in which the corresponding income was accounted for by the assessee company. For the sake of clarity, we deem it apposite to cull out the observation of the Tribunal, as under:

> "6. We have given a thoughtful consideration to the issue before us and are unable to persuade ourselves to subscribe to the view taken by the lower authorities. On a perusal of section 199(3) of the Act, we find that the same reads as under:-
>
> "(3) The Board may, for the purposes of giving credit in respect of tax deducted or fax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which credit may be given. (Emphasis supplied by us).
>
> In our considered view, the aforesaid statutory provision contemplates that the Board may, for the purpose of giving credit in respect of tax deducted or tax paid in terms of the provisions of Chapter VII of the Act, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given. On a perusal of the relevant Rule 37BA, we find, that the same reads as under:
>
> "Credit for tax deducted at source for the purposes of section 199.
>
> (1) Credit for tax deducted at source and paid to the Central Government in accordance with the provisions of Chapter XVII, shall be given to the person to whom payment has been made or credit has been given (hereinafter referred to as deductee) on the basis of information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority.
>
> (2) (i) where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee:
>
> Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1)
>
> (ii) The declaration filed by the deductee under clause (i) shall contain the name, address, permanent account number of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such, 'person.

(iii) The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule

(1) and shall keep the declaration in his safe custody.

(3) (i) 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.

(ii) Where tax has been deducted at source and paid to the Central Govemment and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax.

(4) Credit for tax deducted at source and paid to the account of the Central Govemment shall be granted on the basis of

(i) the information relating to deduction of tax furnished by the deductor to the income-lax authority or the person authorized by such authority, and

(ii) the information in the return of income in respect of the claim for the credit, subject to verification in accordance with the risk management strategy formulated by the Board from time to time."

Rule 37BA(3)(i) clearly provides that 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. In other words, it is specifically provided that the credit for the tax deducted at source cannot be divorced and/or separated from the year in which the corresponding Income is assessable. In fact, we find that Rule 37BA(3)(ii) goes to the extent of providing that where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax. Accordingly, the legislative intent of emphasizing an inextricable nexus between the credit for tax deducted at source (TDS) and the correlating assessable income, can safely be gathered beyond any doubt. In fact, we hold a strong conviction, that the credit for tax deducted at source (TDS) and the corresponding assessable income is so much inextricably interlinked or rather interwoven, that in case they are divorced and considered on a standalone basis in separate years, then the same would result to a distorted tax/interest liability of the assessee under the Act. As such, we are unable to comprehend as to on what basis the aforesaid claim of the assessee for credit of TDS of Rs.45,41,995/-, which as claimed by the assessee pertains to its duly accounted for sales/receipts for the year under consideration i.e. A.Y 2015-16, had been declined by the lower authorities. Our aforesaid view that as per section 199(1) r.w.r 37BA, the credit for the tax deducted at source has to be allowed to the assessee in the year in which the correlating income is assessable is fortified by the order of a co-ordinate Bench of the

Tribunal viz. ITAT, Pune, 'B' Bench in the case of Mahesh Software Systems P.Ltd Vs. ACIT, Cir-11(2), ITA No. 1288/Pun/2017, dt. 20-09-2019 for A.Y 2011-12. In the said case, it was observed by the Tribunal, as under:

"4. We have heard both the sides and gone through the relevant material on record. A copy of the Sale register of the assessee has been placed at pages 46 and 47 of the paper book depicting total sales for the year under consideration at Rs.3,69,53,687.33. This amount of turnover of Rs.3.69 crore includes the invoice dated 28-03-2011 amounting to Rs.80,10,000/- raised on Ashoka Leyland, It is in respect of this amount of invoice Rs.80,10,000 plus other taxes etc. totalling to Rs.84,10,000/-, that Ashoka Leyland deducted tax at source amounting to Rs.8,41,050/-, Thus, it is established that the assessee recorded invoice of Rs.84.10 lakh in its accounts for the year under consideration. It is also equally true that Ashoka Leyland deducted tax at source on such amount to the tune of Rs.8,41,050/- but deposited it with the exchequer in the month of April, 2011. The dispute has arisen because of this only. Whereas the claim of the assessee is that the benefit of TDS should be allowed in the year in which the assesse has recorded the corresponding income and the Revenue is contending that such benefit can be given only in the year of deposit of TDS.

5. Section 199(3) of the Act, which is relevant for our purpose, reads as under

"The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given

6. The relevant rule is 378A which is reproduced as under:

"Credit for tax deducted at source for the purposes of section 199.

(1) Credit for tax deducted at source and paid to the Central Government in accordance with the provisions of Chapter XVII, shall be given to the person to whom payment has been made or credit has been given (hereinafter referred to as deductee) on the basis of information relating to deduction of tax furnished by deductor to the income-tax authority or the person authorised by such authority.

(2) (i) where under any provisions of the Act, the whole or any part of the income on which tax has been deducted at source is assessable in the hands of a person other than the deductee, credit for the whole or any part of the tax deducted at source, as the case may be, shall be given to the other person and not to the deductee

Provided that the deductee files a declaration with the deductor and the deductor reports the tax deduction in the name of the other person in the information relating to deduction of tax referred to in sub-rule (1).

(ii) The declaration filed by the deductee under clause (1) shall contain the name, address, permanent account number of the person to whom credit is to be given, payment or credit in relation to which credit is to be given and reasons for giving credit to such person.

(iii) The deductor shall issue the certificate for deduction of tax at source in the name of the person in whose name credit is shown in the information relating to deduction of tax referred to in sub-rule (1) and shall keep the declaration in his safe custody.

(3) (i) 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.

(ii) Where tax has been deducted at source and paid to the Central Government and the income is assessable over a number of years, credit for tax deducted at source shall be allowed across those years in the same proportion in which the income is assessable to tax

(4) Credit for tax deducted at source and paid to the account of the Central Government shall be granted on the basis of-

(i) the information relating to deduction of tax furnished by the deductor to the income-tax authority or the person authorized by such authority: and

(ii) the information in the return of income in respect of the claim for the credit, subject to venification in accordance with the risk management strategy formulated by the Board from time to time.

7. The AO has relied on sub-rule (1) of section 37BA for denying the benefit of TDS during the year under consideration. This part of the Rule provides that the credit for TDS shall be given to the person to whom payment has been made or credit has been given on the basis of information relating to TDS furnished by the deductor. What is material for sub-rule (1) is the beneficiary of credit for the TDS, being the person to whom payment has been made, which in the instant case is the assessee. The Id. CIT(A) has, in addition, relied on sub-rule (4) of Rule 37BA, which again provides that the credit for TDS shall be granted on the basis of information relating to deduction of tax at source furnished by the deductor. How, this rule prejudices the claim of the assessee is anybody's guess. Obviously, the information about the TDS by Ashok Leyland is not denied. Both the sub-rules simply provide for granting of the benefit of TDS. The point of time at which the benefit of TDS is to be given, is governed by sub-rule (3) of Rule 37BA, which unequivocally provides through clause (1) that the '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'. It is, ergo, abundantly clear from the mandate of Rule 37BA(3)(i) that the benefit of TDS is to be given for the assessment year for which the corresponding income is assessable. Since the income of Rs.84.10 lakh, on which tax of Rs.8,41,050/- was deducted at source, is patently assessable in the year under consideration, we hold that the benefit of the TDS should also be allowed in the same

year, namely, the year under consideration. We, therefore, overturn the impugned order and direct accordingly."

7. On the basis of our aforesaid deliberations, we are unable to subscribe to the view taken by the lower authorities that despite the fact that the sales/receipts were accounted for by the assessee during the year under consideration viz. A.Y 2015-16, the corresponding credit of TDS of Rs.45,41,995/- was not be allowed to it in the said year. In fact, we are unable to persuade ourselves to subscribe to the view taken by the lower authorities, that the credit for the tax deducted at source (TDS) was to be allowed to the assessee in the immediately succeeding year i.e A.Y 2016-17, despite the absence of the assessable income in the said year. Accordingly, we restore the matter to the file of the A.O, with a direction to allow the short/deficit credit of TDS of Rs.45,41,995/- to the assessee in the year under consideration i.e A.Y 2015-16. Before parting, we may herein observe, that the A.O before allowing the credit of the TDS of Rs. 45,41,995/- shall verify the veracity of the claim of the assessee that the sales/receipts corresponding to the TDS credit of Rs.45,41,995/- were accounted for by it during the year under consideration viz. A.Y. 2015-16. Also, as a word of caution, the A.O shall take necessary steps in order to ensure that no TDS credit of the aforesaid amount of Rs. 45,41,995/-is/was availed by the assessee in the immediately succeeding year i.e A.Y 2016-17 in which the same is reflected in its "Form 26AS"

8. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations."

10. As the facts and the issue involved in the present appeal before us remain the same as were before the Tribunal in the aforesaid case, therefore, we in terms of our aforesaid deliberations, direct the AO to allow the credit of the TDS corresponding to the subject income accounted for by the assessee company during the year under consideration. Before parting, we may herein observe as a word of caution that the AO shall, while giving effect to our observations, ensure that no TDS credit of the subject amount is availed by the assessee company in the immediately succeeding year, i.e., AY 2021-22, in which the same is reflected in its Form-26AS.

11. Resultantly, the appeal filed by the assessee company is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 27th March, 2026.

Sd/- **(मधुसूदन सावडिया)** **(MADHUSUDAN SAWDIA)** **लेखासदस्य/ACCOUNTANT MEMBER**	Sd/- **(रवीश सूद)** **(RAVISH SOOD)** **न्यायिकसदस्य/JUDICIAL MEMBER**

Hyderabad, dated 27/03/2026.
OKK/sps
आदेशकीप्रतिलिपिअग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	R.K DISTILLERIES PRIVATE LIMITED, 8-2-309/B/B/1 & 8-2-309/B/B/2, ROAD NO.14, BANJARA HILLS, HYDERABAD, Hyderabad, Telangana-500034.
2.	राजस्व/ The Revenue	:	ITO, WARD 3(1), SIGNATURE TOWERS, OPP BOTANICAL GARDEN, KONDAPUR, Hyderabad, Telangana-500084
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER
KAMALA KUMAR ORUGANTI
Digitally signed by KAMALA KUMAR ORUGANTI
Date: 2026.03.27 15:47:02 +05'30'
Sr. Private Secretary
ITAT, Hyderabad.