IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D': NEW DELHI

BEFORE

SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.2842/Del/2025, A.Y. 2020-21

Hasbro SA Rue Emile Boechat 31, 2800 Delemont, Switzerland, Switzerland PAN: AAFCH6585F	Vs.	Dy. Commissioner of Income Tax (International Tax), Circle-1(1)(1), Delhi
(Appellant)		**(Respondent)**

Appellant by	Sh. Manish, Advocate
Respondent by	Sh. Vikram Singh Sharma, Sr.DR

Date of Hearing	14/01/2026
Date of Pronouncement	21/01/2026

O R D E R

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is directed against the order dated 01st Feb, 25 of passed by Learned Commissioner of Income Tax (Appeals) -42, Delhi [hereinafter

referred to as the "*CIT(A)*"], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as "*the Act*"] wherein rectification order dated 15.06.2024 u/s 154 of the Act by ACIT (CPC), Bengaluru was upheld and disallowance of TDS claim of Rs. 21,14,675/- was confirmed.

2. The facts in brief are that the appellant is a foreign company having registered office located in Switzerland. During the A.Y. 2020-21, the appellant has earned income of INR 2,11,46,750/- from which tax of INR 21,14,675 has already been deducted at sources. The appellant has filed the return of income u/s 139(4) of the Act for A.Y. 2020-21 on 31st March, 2021 declaring a total income at Rs. 2,11,46,750/- offered to tax at the rate of 10% as per the Article 12 of India – Switzerland Double Taxation Avoidance Agreement ('DTAA') while claiming credit of Tax Deducted at Source ('TDS') of Rs. 21,14,675/- against the tax liability on total income. The return of income has been processed vide the intimation dated 9th December, 2021 issued u/s 143(1) of the Act by ACIT (CPC), Bengaluru (AO). In the said intimation, the total income of the appellant has been assessed at INR 2,11,46,750/- and the credit of TDS amount of Rs. 21,14,675/- has not been granted. As a result, the demand of Rs. 27,07,820 including interest was raised for A.Y. 2020-21.

3. Aggrieved by the said intimation, the appellant had filed an application for rectification u/s 154 of the Act before the AO. The said application was dismissed and credit of TDS amount of Rs. 21,14,675/- has not been granted. The appellant challenged the said order u/s 154 of the Act by the Ld. CIT(A) who has dismissed the appeal vide the impugned order.

4. The only issue raised is that the AO has not given the credit of TDS of Rs. 21,14,675/- despite duly reflected in the Form 26AS of A.Y. 2021-22 (P.B. Page No. 46) deposited on 29.06.2021 and the corresponding income has been duly offered to tax in the return of income filed i.e. A.Y. 2020-21. It was further held that as per Section 199 of the Act read with Rule 37BA of the Income Tax Rules, 1962, credit for TDS shall be given for the assessment year for which such income is assessable. The Ld. CIT(A) further observed that on perusal of Form 26AS for A.Y. 2020-21 and 2021-22, it is noticed that amount of royalty of INR 2,11,46,750 has mentioned in return of income, and the corresponding TDS of INR 21,14,675 has been reflected in Form 26AS for the financial year 2020-21 relevant to Assessment Year 2021-22 whereas no data is reflected in in Form 26AS for the F.Y. 2019-20 and A.Y. 2020-21, i.e. neither the amount of royalty has been credited nor the corresponding

TDS has been reflected. Hence, it was held that the contention of the appellant was void on merits and the appeal was dismissed.

5. We have heard the ld. AR for the Assessee and Ld. Sr. DR for the revenue. The Ld. AR for the assessee stated that the assessee has moved an application for admitting the additional evidence under Rule 29 of the Income Tax (Appellate Tribunal) Rules 1963 (ITAT rules). The said additional evidence has been annexed as Annexure A, B and C with the application wherein the copy of invoice raised by the assessee, financial statement of Hasbro India Toys Pvt. Ltd. ('HITPL') who has deducted the TDS in the F.Y. 2019-20 and TDS on 31st March, 2020 relevant to A.Y. 2020-21. It is stated that the said additional evidence could not be filed before the Ld. CIT(A) who did not provide opportunity to substantiate that income belongs to A.Y. 2020-21 and the additional evidence clearly indicate that income belongs to A.Y. 2020-21. It is therefore, prayed that the additional evidence be admitted and matter may be restored to the file of the AO for deciding afresh.

6. The Ld. DR on the other hand opposed to the filing of the Additional evidence stating that no such opportunity was availed by the assessee

before the AO or before the Ld. CIT(A) at the appropriate time and no reasons are given for non-filing of the additional evidence even before the Ld. CIT(A) in the first appeal and Ld. DR, on behalf of the revenue, has therefore, opposed to admit the additional evidence under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963.

7. We have considered the rival submissions and have perused the order of ITA No. 4113/Mum/2023, Dated 05.06.2024 of the Hon'ble Mumbai Tribunal under identical issue of additional evidence was decided. The relevant part of this order is extracted as under:

" 19.The assessee/appellant has sought permission of the additional evidence under Rule 29 of Appellate Tribunal Rules, 1963. Therefore, let us examine the Rule 29 of the Appellate Tribunal Rules, 1963. "Production of additional evidence before the Tribunal: -

> *29. The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or, if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced."*

20. In support of their application, the assessee/appellant has relied the judgment of the Hon'ble Bombay High Court reported as Smt. Prabhavati S. Shah Vs. Commissioner of Income Tax, (1998) 231 ITR 1. Para 9 of the judgment of the Hon'ble Bombay High Court referred (supra) is relevant and reproduced as under:

"9. We are also of the opinion that in the facts and circumstances of this case, even under rule 46A of the Rules the assessee should have been allowed to producethe additional evidence. The Appellate Assistant Commissioner, in our view, was not correct in holding that the case of the assessee did not fall in any of the four exceptions set out in sub-rule (1) of rule 46A. In fact, the present case would fall under clause (c) of subrule (1) of rule 46A because the assessee had no occasion to collect this evidence earlier. He could have reasonably expected that the creditors will appear before the Income-tax Officer in compliance with the summons issued by him. He was never informed by the Income-tax Officer that the creditors were not available or unidentifiable. If he had been informed by the Income-tax Officer in the course of assessment proceedings that he was not inclined to accept the loans as genuine because of the nonavailability of the creditors, he could have tried to satisfy him about the genuineness of the loan by producing other evidence. At the time of hearing of the appeal, the appellant tried to satisfy the Appellate Assistant Commissioner about the genuineness of one of the loans by producing material which he could collect in the meantime. This case, therefore, will fall under clause (c) of sub-rule (1) of rule 46A of the Rules. In any view of the matter, we are of the opinion that in the instant case, the Appellate Assistant Commissioner should have considered the evidence produced by the assessee in regard to the loan of Rs. 40,000 from Champaklal Dalpatrai. In view of the above, we answer question No. 3 in the negative and in favour of the assessee. In view of the above answer to question No. 3, questions Nos. 1 and 2 need not be answered."

21.The Hon'ble High Court of Karnataka in ITA No. 506 of 2018, M/s. Google India Private Ltd. Vs. The Commissioner of Income Tax, order dated 17.04.2021 has been pleased to hold that if additional evidence is to be considered and allowed by the Tribunal, the parties to the proceedings or the affected party should be well aware of the said material/additional evidence, before the same is considered by the Hon'ble Tribunal. Para 19 of the judgement of the Hon'ble High Court of Karnataka in ITA No. 506 of 2018 referred (supra) is relevant and reproduced as under:

"19. In the considered opinion of this Court, keeping in view Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 and also keeping in view the fact that the material on the basis of which the order has been passed was not furnished to the appellant at any point time, the order passed by the Tribunal is certainly violative of principles of natural

justice and fair play as the appellant was not afforded an opportunity to rebut fresh evidence especially when such evidence was based on Google study."

8. We have examined the contents of the application for additional evidence to find out the reasons for not producing the said evidence before the Lower Authorities. It is stated in the application is as under: -

"The present application has been filed under Rule 29 of the ITAT Rules for admission of additional evidence in the above-mentioned appeal coming up for hearing before your Honors on 14 January 2026.

The present appeal was filed against the order dated 01 February 2025 passed under Section 250 of the Income-tax Act, 1961 ('the Act') by the Ld. CIT(A) for AY 2020-21. The Ld. CIT(A) upheld additions made in the order dated 15 June 2024 passed under section 154 read with 143(1) of the Act ('Order') by the Deputy Director of Income-tax, Centralized Processing Centre (CPC), Bangalore [hereinafter referred as Ld. Assessing Officer('AO')]

The prime issue under contention before your Honors is in relation to the non-grant of TDS and consequential interest under section 234A, 234B and 234C. In the said Order, total income of the Appellant has been assessed at INR 2,11,46,750 and credit of TDS amounting to INR 21,14,675 has not been granted. As a result, a demand of INR 27,07,820 including interest is raised for AY 2020-21. The Ld. CIT(A) has upheld the actions of the AO in not granting the credit of TDS amounting to INR 21,14,675 as claimed in the return of income by giving the following reasons:

1. The amount of royalty as mentioned in return of income of INR 2,11,46,745 and its corresponding TDS of INR 21,14,675 is reflected in Form 26AS for AY 2021-22 whereas no data is reflected in Form 26AS of subject year (AY 2020-21) i.e. neither the amount of royalty has been credited, nor corresponding TDS is reflected. Thus, basis for offering the royalty income in AY 2020-21 is not clear.

2. As per section 199 of the Act and Rule 37BA of the Income Tax Rules, 1962, the allowability of credit of TDS is applicable in the year in which

income is received by the Appellant and in the case of the Appellant, from the Form 26AS and insight data, it is evident that the income of the Appellant is reflected in the FY 2020-21(ie. date of payment/credited is 29.01.2021).

Reasons for filing additional evidence:

- *The Appellant was under the bona-fide belief that material already brought on record before the Ed. CIT(A) demonstrates that since royalty income is offered to hoc in A 2020-21, the corresponding TDS credit (appearing in Form 2645 of AY 2021-22) should be given for the assessment year in whicli income is amenable (Le. AY 2020-21) as per section 199 read with Rule 37BA of Income-tex Rules, 1962 (the Rules)*
- *During the subject proceedings, neither the AO nor Ed. CTT(A) specifically asked the Appellant to produce give evidence to substantiate that royalty income pertained as A 2020-21.*
- *Considering the objections raised by the CIT(A) that reason for offering the royalty income in AY 2020-21 is not clear, the Appellant would like to produce/rely upon the following documents as additional evidences with respect to Ground 5-f of the Grounds of Appeal:*
  - *a) Invoice of the royalty issued by the Appellant he the AY 2020-21 (Annexure A)*
  - *b) Relevant extract of audited financials of the lndian party being payer of royalty i.e.Hasbro India Toys Private Limited for AY 2020-21 ("HITPL') (Annexure B)*
  - *c) Relevant extract of audited financials of HITPE for AY 2021-22 (Annexure C)*

The said additional evidences further reinforces the submission of the Appellant that royalty in pertains to AY 2020-21 and accordingly, the same was offered to tax by the Appellant in AV 2020-21 itself.

- *The Appellant also submits that the non-filing of the above additional evidences during the CTT (A) proceedings was not willful.*

- *Lastly, the aforesaid additional evidence is in addition to the evidences that were already submitted before the CIT(A) and supplements the earlier arguments of the Appellant made before CIT(A).*

Rule 29 of the ITAT Rules

Rale 29 of the ITAT Roles allows ITAT to admit additional evidence if such additional evidence is required to pass an order, or for any other substantial cause, or if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee. Said Rule 29 is reproduced below:

"29. The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or, if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced."

Given the above, in view of the provisions of Rule 29 of ITAT Rules, we respectfully submit that your Honors have wide powers of accepting additional evidence(s) produced by the Appellant during the course of appellate proceedings.

In this regard, the Appellant wishes to place reliance on the following judicial precedents:

- *Hon'ble Delhi ITAT in the case of ACIT vs. NIIT Technologies Ltd. (ITA No. 5491 & 5491/bel/2013 & ITA Nos. 5524 & 5525/Del/2013/ on the question of admissibility of additional evidence filed before the ITAT, wherein it was held as follows:*

"24.1 The Hon. Jurisdictional High Coud in the case CIT y. Text Hundred India Pvt. Ltd.: 239-CTR 263, held that Rule 29 enables the Tribunal to admit any additional evidence which would be necessary to do substantial justice in the matter. Their Lordships further observed that the various procedures, including that relating to filing of additional evidence, is handmade for justice and justice should not be allowed to be choked only because of some inadvertent error or omission on the part of one of the parties to lead evidence. In the case of CIT v. Virgin Securities & Credits Lad: 332 ITR 396 (Delhi), the Hon, jurisdictional High Court held that the CIT(A) may admit additional evidence, after obtaining a remand report from the assessing officer, if the evidence sought to be adduced by the applicant is crucial to the disposal of the appeal. Hon'ble ITA T Delhi have also held in the case Of Electra (Jaipur) (R) Lid v. IAC (1988) 26 ITD 236 that if the evidence is genuine, reliable, proves the assessee's case, then the assessee should not be denied the opportunity. Similarly it was held in Dwarka Prasad v. ITO 63 ITD 1 (TM) that additional evidence if in the interest of justice, and renders assistance to the authority in passing order, may be admitted. Other similar rulings are 68 TTJ 722, 231 ITR 1, 21 SOT 218, 293 [TR 53, 94 ITO 79 etc. In View of the guidance available in the afore-cited judicial pronouncements, I hold that the additional evidence as mentioned in para 2.3 above are admissible u/r 46A and are taken on record."

- *The judgment of Hon'ble Delhi ITAT in case of Electra (Jaipur) (P) Ltd vis Inspecting Assistant Commissioner (1988) 26 ITD 236 wherein in the facts of that case it has been held that the sole purpose of judiciary as well as revenue is to get at the truth. There should be no objection to consider any evidence produced to test the authenticity and the relevance of the transaction. If the evidence is genuine, reliable and proves the assessee's case, the assessee should not be denied an opportunity. Further it has been held that it is incorrect to shut out an assessee in the process of administration of justice from leading evidence to prove its case.*

- *In the case of Mahavir Prasad Gupta vs Joint Commissioner of Income-tax, Hon'ble ITAT bench of Delhi has held as under:*

"5..... Ostensibly, the power of the Tribunal in terms of rule 29 to admit fresh evidence entail an element of discretion which is required to be exercised in a judicious manner. The powers of the Tribunal to admit additional evidence are not only in situations where the evidence could not be produced before lower authorities owing to lack of adequate opportunity but also situations where the fresh evidence would enable the Tribunal to pass order or for any other substantial cause

In light of the above discussion and the judicial pronouncement, we humbly request before the Hon'ble Bench to use the power given as per Rule 29 of ITAT Rules and admit the additional evidences annexed to this application in the interest of justice and fairness.

Prayer

In light of the above circumstances of the Appellant's case, it is prayed that the said additional evidences may kindly be admitted and taken on record for adjudication in the interest of justice and fairness."

9. It is thus evident from the contents of the application that the assessee-appellant could not produce these documents under the bonafide belief that the material already brought on record before the Ld. CIT(A) would demonstrate that, since the royalty income was offered to tax from A.Y. 2020-21, benefit of the corresponding TDS credit (appearing in form 26AS of A.Y. 2021-22) should be given in the assessment year in which the income is assessable i.e. A.Y. 2020-21 as per Section 199 r.w.r 37BA of Income –tax (Appellate Tribunal) Rules, 1962 ('the Rules'). It is further stated that neither the AO nor the Ld. CIT(A) asked the

appellant to produce / give evidence to substantiate that the royalty income pertained to A.Y. 2020-21.

10. It is therefore, stated that due to that bonafide belief, the documents could not be produced and the end of justice requires that the assessee be permitted to file documents under Rule 29 of the ITAT Rules, 1963 and the additional evidence may accordingly be admitted.

11. The tax has already been deposited by the assessee. The Only question is that the relevant documents were not produced during the assessment proceedings or before the first appellate authority due to the bonafide belief/ misconception. There is nothing brought on record by the revenue which may show any Act or omission on the part of assessee or the omission was not bonafide, as nothing malafide has been alleged for brought to our notice on the part of the assessee for not producing additional evidence/ relevant evidence in support of royalty income being earned for the relevant A.Y. 2020-21.

12. In these facts and circumstances, we are of the considered opinion that the assessee/ appellant should not be penalized for mere technical lapse on their part by not filing the relevant document at the relevant

time. Further, no prejudice is going to be caused to revenue as the lawful tax is already deducted/deposited.

13. For the above reasons, we are of the considered opinion that the additional evidence sought to be filed, should be admitted and considered by the Revenue authorities as the lawful tax, which the assessee was liable to pay has already been paid and no prejudice is going to be caused to the revenue if the additional evidence is admitted allowed at this stage. For these reasons, the end of justice required that appellant/assessee be given an opportunity to file additional evidence in support of its claim of TDS deduction/ credit of TDS which is lawfully available to the assessee.

14. Rule 30 of the Appellate Tribunal Rules, 1963 provides as under:

> **"Mode of taking additional evidence: -**
>
> *30. Such document may be produced or such witness examined or such evidence adduced either before the Tribunal or before such income-tax authority as the Tribunal may direct."*

15. In view of the provisions of the Rule 30 of the Appellate Tribunal Rules, 1963 and in the given facts and circumstances, the case is restored to the file of the Ld. AO who shall consider the additional evidence to be

filed by the assessee/appellant before the Ld. AO within the period of 60 days from this order. The Ld. AO after verification of claim of the Assessee shall allow deduction u/s TDS amount as per Law.

16. For the above reasons, the grounds of the appeal are allowed for statistical purposes.

17. The appeal is accordingly disposed off in above terms for statistical purposes.

18. In the result, appeal filed by the assessee is allowed with above directions for statistical purposes.

Order pronounced in open Court on 21st January, 2026.

Sd/-	Sd/-
(RAMIT KOCHAR)	**(RAJ KUMAR CHAUHAN)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 21st/01/2026
Binita, Sr. PS
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT/PCIT
4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI