



DEL ITAT: TDS Credit On Salary Undeniable To Employee Where Employer Deducted But Failed To Deposit Tax; Liability To Remit Solely On Employer.

Facts of the case

The case involved the assessee, Ramita Chaudhuri, an employee of M/s Mahou India Private Ltd. During the Assessment Year 2021-22, the employer deducted TDS amounting to Rs. 22,20,182 from a bonus payment of Rs. 60,00,000 made to her. However, this deducted amount was not deposited into the Central Government's account and consequently did not appear in the assessee's Form 26AS. This mismatch led the Centralized Processing Center (CPC) to disallow her claim for TDS credit. The assessee appealed against the order of the Commissioner of Income Tax (Appeals) [CIT(A)], who had directed verification but made the grant of credit conditional upon the employer's actual deposit. A delay of 55 days in filing the appeal was condoned by the ITAT due to the assessee's residence abroad at the time.

Contentions of the Assessee

The assessee contended that the TDS was lawfully deducted from her income, as substantiated by her salary slips and bank statements reflecting the net credit. She argued that denying her credit for the TDS would constitute double taxation, as the tax was already withheld from her earnings. She maintained that she should not be penalized for the employer's failure to fulfil its statutory duty to deposit the deducted tax, emphasizing that the fault lay entirely with the employer.

Contentions of the Revenue

The Revenue authorities contended that the credit for TDS can only be granted if the tax has been received by the government, as evidenced by its reflection in the official Form 26AS. Their position was that the employer's default in depositing the TDS does not create an obligation for the department to grant credit to the employee unless the funds have reached the government's account, thereby protecting the treasury's interest.

Delhi ITAT's Decision:

The ITAT ruled in favour of the assessee. The bench held that u/s 200 of the Income Tax Act, 1961, the statutory obligation to remit any deducted TDS to the government rests solely with the employer. Once tax is deducted from an employee's income, the employee's right to claim credit for that tax is established, and this right cannot be denied due to the employer's subsequent failure to deposit it. The Tribunal directed the Assessing Officer to verify the factual deduction of TDS using the assessee's salary slips, bank statements, and employer records. Upon confirmation of deduction, the credit must be granted to the assessee. Simultaneously, the ITAT clarified that the Assessing Officer is empowered to initiate appropriate recovery proceedings, including levying interest and penalties, against the defaulting employer to recover the undeposited TDS amount. The appeal was thus partly allowed for statistical purposes.

Citation

Ramita Chaudhuri [TS-1635-ITAT-2025(DEL)]

**Takeaway:**

This ruling provides crucial protection to employees, establishing that proof of deduction of TDS from their income is sufficient to claim credit, irrespective of the employer's failure to deposit it. It clearly delineates liability, affirming that the primary legal and financial responsibility for remitting TDS lies with the employer. The decision prevents unfair double taxation of employees and promotes equity in tax administration. Furthermore, it instructs tax authorities to conduct factual verifications beyond automated Form 26AS mismatches and confirms that the department retains full legal recourse to recover dues, with interest and penalties, from the defaulting employer.