

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 406 of 2015

Date of Decision: 8.2.2016

The Commissioner of Income-tax (TDS)-I, Chandigarh
....Appellant.

Versus

State Bank of Patiala, SCO 3-A, Sector 7-C, Chandigarh
...Respondent.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Denesh Goyal, Advocate for the appellant.

AJAY KUMAR MITTAL, J.

1. This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated 30.6.2015 (Annexure A-4) passed by the Income Tax Appellate Tribunal, Chandigarh Bench "A", Chandigarh (hereinafter referred to as "the Tribunal") in ITA No. 79/CHD/2015, for the assessment year 2012-13, claiming the following substantial questions of law:-

- (i) Whether the ITAT was right in law in deleting the penalty imposed by the AO u/s 271C read with Section 274 of the Income Tax Act for

failure to deduct tax at source out of interest paid/credited to four deductees as required u/s 194A of the Income Tax Act, 1961?

- (ii) Whether on the facts and circumstances of the present case and in law, the Hon'ble ITAT is right in holding that the assessee was not liable to deduct tax at source, as required u/s 194A of the Income Tax Act, 1961?
- (iii) Whether in the facts and circumstances of the case and in law the Hon'ble ITAT is right in holding that assessee has a genuine belief that it was not required to deduct tax at source, as required u/s 194A of the Income Tax Act, 1961?

2. Briefly stated, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. A TDS Inspection/ Survey under Section 133A of the Act was carried out at the business premises of the assessee on 27.2.2013. During the course of said survey, it was noticed that the assessee had not deducted tax on interest paid to different parties who claimed to be exempt from the income tax under Sections 12A and 10(23C) of the Act. The Person Responsible (PR) of the Bank admitted the default on his part and deposited the Tax Deducted at Source (TDS) along with interest on 1.3.2013. On asking to furnish the details and proof of deposit of TDS into Government account, the PR furnished the same vide letter dated 1.3.2013 and as per the details, the total TDS along with interest under Section 201(1A) of the Act amounting to ₹ 46,62,737/- was deposited. The assessee had filed its e-TDS statements late for the financial year 2012-13. The matter

regarding initiation of penalty proceedings under Section 272A(2)(k) of the Act was referred to the Joint Commissioner of Income Tax (TDS), Range, Chandigarh and separately to initiate penalty proceedings under Section 271C of the Act. Since the PR had failed to deduct tax at source under Section 194A of the Act @ 10% on the payments made on account of interest paid to different parties and deposit the same in the Central Government account, the Deputy Commissioner of Income Tax (TDS), Chandigarh vide order dated 26.12.2013 (Annexure A-1) under Section 201(1)/201(1A) of the Act informed the office of Joint Commissioner of Income Tax (TDS), Range, Chandigarh that the deductor had not deducted the tax at source amounting to ₹ 42,90,960/- during the financial year 2012-13 and also failed to deposit the same in the Central Government account as required under Chapter XVII-B of the Act. Accordingly, a notice dated 15.1.2014 was issued to the PR to show cause as to why penalty under Section 271C read with Section 274 of the Act be not levied for failing to pay the amount of TDS. The Joint Commissioner of Income Tax (TDS), Range, Chandigarh vide order dated 15.5.2014 (Annexure A-2) imposed a penalty of ₹ 42,90,960/- under Section 271C of the Act. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity "the CIT(A)"]. The CIT(A) vide order dated 27.11.2014 (Annexure A-3) allowed the appeal of the assessee and deleted the penalty. Against the order, Annexure A-3, the revenue filed an appeal before the Tribunal who vide order dated 30.6.2015 (Annexure A-4) upheld the order of the CIT (A) and dismissed the appeal. Hence, the present appeal.

3. We have heard learned counsel for the revenue.

4. It is not disputed by the learned counsel for the revenue that

the issue raised herein stands concluded by the decision of this Court in the case of assessee in **ITA No. 400 of 2015 (The Commissioner of Income-tax (TDS)-I, Chandigarh v. State Bank of Patiala, SCO 3-A, Sector 7-C, Chandigarh)** decided on 4.2.2016 wherein the appeal filed by the revenue has been dismissed.

5. In view of the above, the instant appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

February 8, 2016
gbs

(RAJ RAHUL GARG)
JUDGE