

**IN THE INCOME TAX APPELLATE TRIBUNAL,
INDORE BENCH, INDORE**

**BEFORE SHRI D.T. GARASIA, JUDICIAL MEMBER
AND SHRI O.P. MEENA, ACCOUNTANT MEMBER**

I.T.A. No.211/Ind/2016
Assessment Year: 2013-14 (Qtr.3)

State Bank of Patiala, 30, Varruchi Marg, Freeganj, Ujjain TAN: BPLS03866C	Vs.	DCIT(TDS) CPC, GHAZIABAD
Appellant		Respondent

Appellant by	Shri Sharad Jain, JCA
Respondent by	Shri Mohd. Javed, Sr. DR

Date of hearing	18.08.2016
Date of pronouncement	18.08.2016

ORDER

PER O.P. MEENA, ACCOUNTANT MEMBER.

This appeal is filed by the assessee against the order of Id. Commissioner of Income-tax (Appeals), Ujjain, [hereinafter referred to as the CIT(A)] dated 15.12.2015 and pertains to assessment year 2013-14 as against appeal decided in order u/s. 200A of Income Tax Act,1961(hereinafter referred to as

"the Act) dated 25.12.2013 of DCIT(TDS),CPC, Ghaziabad [hereinafter referred to as the AO].

2. Ground no. 1 of the appeal of the assessee reads as under :-

“That, on the facts and the circumstances of the case, the ld. CIT(A) erred in holding that the appellant was liable to deduct TDS on interest payment TO Shri Prafulla Kumar Jain (PAN: ABMPJ 1974K) @ 20% as per section 206AA (for non availability of PAN OF Prafulla Kumar), instead of normal TDS rate on interest at 10%.

The sum and substance of the grounds of appeal is that the learned CIT(A) has erred in holding that the assessee was liable to deduct TDS u/s 194A read with section 206AA of the Act at Rs.7,755/- and also erred in confirming interest of Rs.1,025/- levied u/s 201(1A) of the Act on the ground that the assessee was liable to deduct TDS on interest payment @ 20% as per section 206AA (for non-availability of PAN) instead of normal rate of TDS at 10%.

3. Brief facts of the case are that the assessee is a nationalised bank which was required to deduct TDS on the stipulated rate and deposit the same in the Govt. account. The assessee has deducted TDS @ 10% in the case of Shri Prafull

Kumar Jain. The PAN of this person was quoted wrongly, hence, the assessee was required to deduct TDS @ 20%. Therefore, the Assessing Officer raised the demand of Rs. 8,780/- on account of short deduction of TDS and interest of Rs.1,025/- on short deduction. Against this, the assessee filed appeal before the learned CIT(A) who also confirmed the action of the Assessing Officer.

4. Aggrieved with the above order of the learned CIT(A), the assessee is now in appeal before the Tribunal.

5. The learned counsel for the assessee submitted that correct PAN of the payee is available with the assessee, therefore, TDS liability is 10% instead of 20%. The correct PAN of payee has also been mentioned at page 4 para 7 of the order of the learned CIT(A). However, due to typing error on account of large volume of entries in TDS return, wrong PAN only of this payee was mentioned in the original return. The learned counsel for the assessee submitted that later on correct PAN of this payee was mentioned in the revised TDS return and the same was accepted by the department and the credit has also been given to this payee but the demand from

the assessee for short deduction of TDS remained to be there due to non-updation. It was contended that the finding given in para 4.1 at page 6-7 is wrong application of law. The learned CIT(A) has confirmed short deduction for wrong furnishing of PAN in TDS return (that too due to typographical mistake on the part of the bank due to volume of entries to be made) whereas section 206AA is applicable for not having PAN. It was also submitted that Prafull Kumar Jain is old assessee and is filing regular income tax returns and have filed the return of the concerned assessment year i.e. 2013-14. Thus, it is not a case that PAN was not available at the time of deduction of TDS and was obtained later on. It was also submitted that the assessee duly submitted its revised return on 8.6.2013 wherein the correct PAN was mentioned. Copy of relevant pages of the Revised TDS return are placed at Annexure B-1 to B-2. The learned counsel for the assessee placed reliance on the decision in the case of ONGC Ltd., ITA Nos.1984 to 1986/Ahd/2016 dated 22.9.2015, CIT vs. Superintendent of Police (2012) 349 ITR 0550 (P&H) wherein it was held that default is only with regard to wrong quoting of

PANs of 196 deductees, such deductees quoted wrong PAN. However, correct PAN was given as soon as the default was brought to the notice of the assessee. Hence, penalty on the ground that the assessee deducted TDS correctly and revised return was filed correctly in compliance with the statutory provisions, there was sufficient compliance of provisions of section 139A regarding PAN. The learned counsel for the assessee also relied upon the case of Vijay Siddhraj Bashte; (2014) 66 SOT 0068 (Pune). The learned counsel for the assessee also took shelter under Circular No. 75/2010 of CBDT which says that non-quoting of PAN by the deductee is creating problems in processing of returns of income and in granting credit for tax deducted at source leading to delay in issuing the refunds.

6. On the other hand, the learned Sr. DR relied upon the orders of the authorities below.

7. We have considered the rival submissions of the parties.

It is the case of the revenue that the assessee has not furnished correct PAN of Shri Prafull Kumar Jain, PAN mentioned in the original TDS return in respect of the above

deductee was not valid/correct. Therefore, the Assessing Officer was justified in adopting the TDS rate of 20% as against 10%. However, it is seen that the assessee has filed the revised TDS return by quoting the correct PAN which was accepted by the department. We find that it is not a case that PAN of payees available with the assessee was not correct but this is a case where due to typographical error or much volume of entries in TDS return, wrong PAN of only one payee was mentioned in the original TDS return though the payee appears to have supplied correct PAN to the assessee. Similarly, Shri Prafull Kumar Jain is old assessee. Therefore, it is a clerical and typographical error while feeding data in TDS return which led to wrong application of tax rate of 20% in the case of one deductee whereas the assessee might have paid interest to a large number of persons, the assessee being a public sector bank. Since the mistake of quoting wrong PAN has been rectified in the revised TDS return filed by the assessee which has been accepted by the department, therefore, there is no justification in raising a demand on account of short deduction of TDS. The case laws cited (supra)

as relied upon by the learned counsel for the assessee also support the case of the assessee. Considering the facts and circumstances of the case, we are of the view that the Assessing Officer was not justified in adopting the rate of 20% as against 10%. We, therefore, delete the demand of Rs. 8,780/- and interest thereon of Rs. 1,025/- as made by the authorities below.

8. In the result, the appeal of the assessee is allowed.

The order has been pronounced in open court on the 18th August, 2016.

Sd/-
(D.T.GARASIA)
JUDICIAL MEMBER

Sd/-
(O.P.MEENA)
ACCOUNTANT MEMBER

Dated :18th August, 2016.

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Copy of the order forwarded to :
The Assessee/ PCIT- Indore/ CIT(A)-I, Indore, AO/ DR- Indore Bench/
Guard file

By order
Assistant Registrar of ITAT, Indore Bench