

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH 'A', CHANDIGARH**

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER AND
Dr. B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA Nos.587 To 590/Chd/2017
Assessment Years: 2011-12 to 2014-15

Canara Bank
Main Branch
Shimla

Vs.

The ITO (TDS)
Shimla

PAN No. PTLC10840E

(Appellant)

(Respondent)

Assessee By : Sh. Hardesh Jindal
Revenue By : Smt. Chandrakanta

Date of hearing : 28/02/2018
Date of Pronouncement : 28/02/2018

ORDER

PER BENCH:

All the above appeals has been filed by the Assessee against the order of the Ld. CIT(A), Shimla (H.P.) dt. 31/01/2017. Since the issues involved in all the appeals are identical therefore they are being decided by a common order for the sake of convenience. We shall deal with ITA No. 587/Chd/2017 as a lead case.

2. Assessee has raised the following grounds which are as under:

1. *The Ld. CIT(A) has erred in law and facts of the case while confirming all the additions in the TDS amount of the assessee.*
2. *The Ld. CIT(A) has erred in law and facts of the case while not allowing the excess TDS deposited for the quarter ending 31st March 2014, which was considered to be short deducted during the previous 3 quarters.*
3. *The Ld. CIT(A) has erred in law and facts of the case while confirming the calculation of interest under section 201(1A) till the date of passing of order instead of year end when such taxes have been paid.*
4. *The Ld. CIT(A) has erred in law and facts of the case while rejecting implementation of circular No. 3/2010 dt. 03/02/2010.*

5. *The Ld. CIT(A) has erred in law and facts of the case while not considering interest paid on Motor Accidents claims which are exempted from TDS under section 194A(3)(9).*
6. *The Ld. CIT(A) has erred in law and facts of the case while not considering interest paid to Registrar of High Court and other legal authorities (such as judges of Courts, Session Courts and High Courts) taking the plea that a circular No. 8 of 2011 dt. 14/10/2011 was issued to deal with such cases, whereas the circular was quashed by Delhi High Court later on.*

Further the assessee has also raised additional grounds which are as under:

1. *The Ld. CIT(A) has erred in law and facts of the case while not considering that the AO had no power of survey under section 133A. Hence the survey should be considered ultravires and proceedings of survey and the order passed be quashed.*
2. *The Ld. CIT(A) erred in law and facts of the case while not considering that the sections 201(1A) and 201(1A) are not the sections to pass an order and hence these orders should not be considered binding upon the assessee.*
3. The additional grounds of appeal are legal in nature and goes to the root of the matter determining the issue at hand. Hence the case is hereby referred back to the desk of Ld. CIT(A) to adjudicate on the matter of jurisdiction, and the power of survey under section 133A to the Assessing Officer and to consider the section 201(1) and 201(1A) under which the order have been passed. The Ld. DR brought to our notice that the issue involved is not emanating from the survey carried out. Hence, the background of these facts the Ld. CIT(A) is directed to adjudicate categorically on the additional grounds taken by the assessee.
4. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court.

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

Sd/-
(DR. B.R.R.KUMAR)
ACCOUNTANT MEMBER

Dated : 28/02/2018

AG

Copy to: The Appellant, The Respondent, The CIT, The CIT(A), The DR