

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "J" MUMBAI**

**BEFORE SHRI SAKTIJIT DEY (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 4548/MUM/2016  
Assessment Year: 2011-12**

Smt. Sheela M. Apte  
25/A, Woodlands, Pedder  
Road,  
Mumbai-400026.

ITO-16(1)(1),  
Vs. Matru Mandir  
Building, Grant  
Road,  
Mumbai-400007

**PAN No. ADBPA4847R**  
**Appellant**

**Respondent**

Assessee by : Mr. Rushabh Mehta, AR  
Revenue by : Ms. Arju Garodia, DR

Date of Hearing : 06/03/2018  
Date of pronouncement : 28/03/2018

**ORDER**

**PER N.K. PRADHAN, AM**

This is an appeal filed by the assessee. The relevant assessment year is 2011-12. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-30, Mumbai [in short CIT(A)] and arises out of the assessment completed u/s 143(1) of the Income Tax Act 1961, (the 'Act').

2. The grounds raised by the assessee in this appeal are against the order of the Ld. CIT(A) in confirming the order of the Assessing Officer (AO) in not allowing the claim of TDS of Rs.58,431/- on interest earned on fixed deposits pertaining to earlier years offered in the year under consideration on receipt basis.

3. Briefly stated, the facts of the case are that the assessee filed her return of income for the assessment year (AY) 2011-12 on 26.07.2011 declaring total income of Rs.12,38,910/- and claiming a refund of Rs.9,094/-. The same was processed u/s 143(1) on 05.11.2011 raising a demand of Rs.51,620/-.

4. Aggrieved by the order of the AO, the assessee filed an appeal before the Ld. CIT(A). During the course of appellate proceedings, the assessee submitted that she filed her return of income including bank interest. The reasons for inclusion of bank interest of previous years is that the bankers have capitalized interest accrued on deposits amounting to Rs.5,70,990/- and issued tax deduction at source (TDS) certificate in the month of July 2011. On that basis, the assessee included interest income in her return of income adjusting TDS amounting to Rs.58,331/-.

However, the Ld. CIT(A) was not convinced with the above explanation of the assessee and held that (i) in all the certificates, the assessment year is mentioned as 2011-12 but the period mentioned is the relevant financial year, (ii) the amounts were deducted in the relevant year and paid to the government account at that particular time only, as per the dates mentioned in the certificates, (iii) only the banker issued the certificate in the current year but all the amounts are reflected in Form No. 26AS in that particular assessment year only except in 2008-09, (iv) even if the banker did a mistake of issuing the certificate in the current year, the appellant very well knew that the deposits were held by her in the banks and such deposits earn interest, which is taxable, (v) just because the TDS certificate is issued in the current year, the appellant cannot take the income earned in the

earlier, to the current year, (vi) if the appellant wants to take credit for TDS of earlier years, she can file a revised return for the earlier year and claim of the same, at the same time she can file a revised return for the current year and claim refund of the excess amounts paid in the current year.

In view of the above reasons, the Ld. CIT(A) upheld the order of the AO and dismissed the appeal filed by the assessee.

5. Before us, the Ld. counsel of the assessee files a copy of (i) computation of income filed along with the return of income, (ii) Form No. 16A for the AY 2011-12 dated 21.07.2011 signed by the Sr. Manager, Bank of Baroda, Altamount Road, Mumbai, relating to the financial year 2007-08, 2008-09 and 2009-10.

The Ld. counsel submits that the reasons for inclusion of bank interest of previous years is that the bankers have capitalized interest accrued on deposits amounting to Rs.5,70,990/- and issued TDS certificate in the month of July 2011.

The Ld. counsel submits that as per Form No. 16A issued by Bank of Baroda, the assessee has correctly filed the return of income and the same may be accepted.

6. On the other hand, the Ld. DR supports the order passed by the Ld. CIT(A).

7. We have heard the rival submissions and perused the relevant materials on record. The details as contained in Form No. 16A are extracted below:

S. No.	Deductor	A.Y. year	Date of issue, Form 16A	Gross interest amount	TDS amount (Rs.)
1.	<b>BOB</b>	<b>2011-12</b>	21.07.2011	78,964	8,133
2.	<b>BOB</b>	<b>2011-12</b>	21.07.2011	1,95,235	20,110
3.	<b>BOB</b>	<b>2011-12</b>	21.07.2011	2,96,791	30,188
		<b>Sub-total</b>		<b>5,70,990</b>	<b>58,431</b>
4.	<b>BOB</b>	<b>2011-12</b>	21.07.2011	2,43,901	24,391
		<b>Gr. Total</b>		<b>8,14,891</b>	<b>82,822</b>

Form No. 16A is filed as per Rule 31(1)(b) of the Income Tax Rules, 1962. To be more precise, it is a certificate u/s 203 of the Act for tax deducted at source. It contains *inter alia* the assessment year and the period to which the same relates. What the assessee is claiming in the instant case is the one depicted in Form No. 16A duly signed by the deductor. The assessee is not claiming anything more.

As the claim of the assessee in the instant case is as per Form No. 16A filed u/s 203, we agree with the above claim and set aside the order of the Ld. CIT(A). We direct the AO to accept the claim of TDS of Rs.58,431/- on interest earned on fixed deposits pertaining to earlier years offered in the year under consideration on receipt basis.

8. In the result, the appeal is allowed.

**Order pronounced in the open Court on 28/03/2018.**

Sd/-  
(SAKTIJIT DEY)  
JUDICIAL MEMBER

Sd/-  
(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 28/03/2018

*Rahul Sharma, Sr. P.S.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**