

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos. 1471, 1475, 1476, 1480, 1483, 1485, 1486,
1487 & 1489/JP/2018

निर्धारण वर्ष / Assessment Years : 2010-11 to 2016-17

Oriental Bank of Commerce, Umrao Complex, M.I. Road, Jaipur.	बनाम Vs.	DCIT (TDS), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAACO 0191 M		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Rajiv Sogani (CA) &
Ms. Shivangi Samdhani (CA)

राजस्व की ओर से / Revenue by : Ms. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 20/03/2019
उदघोषणा की तारीख / Date of Pronouncement : 26/03/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

These are the appeals filed by the assessee against the different orders of the Id.CIT(A)-3, Jaipur dated 23/10/2018, 24/10/2018 and 22/10/2018 respectively for the A.Y. 2010-11 to 2016-17 in the matter order passed U/s 201(1) and 201(1A) of the Income Tax Act, 1961 (in short the Act).

2. Rival contentions have been heard and record perused. Facts and circumstances in all the cases are same wherein the Id. CIT(A) did not condone the delay in filing the appeal before the Id. CIT(A) and dismissed the appeals on the ground of delay in filing without going into the merits of the case.

3. From the record, I found that the assessee is a government bank engaged in banking activities. The assessee used to take deposits from the customers and give loans and other banking services to its customers. The Assessing Officer found that the assessee has not deducted TDS on interest payment exceeding basic limit. It was contended before the Assessing Officer that the customers to whom the interest was paid have duly filled Form 15G/15H, therefore the bank did not deduct tax. However, the Assessing Officer found that the aggregate interest in the financial year exceeded the basic exemption limit as per Income Tax Act for filing return U/s 139(1) of the Act and still no TDS was deducted. The Assessing Officer treated the assessee is in default U/s 201(1) and 201(1A) of the Act. Against the order of the Assessing Officer, the assessee filed appeal before the Id. CIT(A), which was delayed.

4. It was submitted before the Id. CIT(A) that the banking company having branches vise separate TDS no. and therefore, the demand notice was received at branch address. Branch staff and branch manager are generally not aware about intricacies and procedural aspects of income tax assessment. Even, they have no idea regarding filing of appeal within a 30 days of receiving of order, therefore, did not note the date of receiving of order. Moreover, the concerned officer at the branch was transferred shortly after which led to oblivion towards the matter. Furthermore, the notice was received on 11.10.2017 for deposit of demand or otherwise attachment of bank accounts and then the matter was brought under consideration of senior officer at H.O. level. Senior officer at the H.O. level requested to the concerned Income Tax Officer for assessment order and certified copy of the same was received to branch on 12.01.2018. Finally, branch was advised to filing of appeals before respective Commissioner of Income Tax (Appeals).

5. It was also submitted that the bank did not derive any benefit from delay in filing of appeals; rather it suffered as serious risk of high handed demand. It is submitted that the judiciary is respected on account of its power to provide justice and not for condoning injustice

on technical grounds. The judiciary is capable, and is expected to do so, of removing technical difficulties in the interest of justice.

6. The Id. CIT(A) did not convince with the reasons for delay filing of appeals, accordingly, he dismissed the appeals on the ground of delay without going into the merits of the case.

7. I have heard the rival contentions and carefully gone through the reasons for delay in filing the appeals before the Id. CIT(A). I found that there was sufficient reason for delay in filing the appeals before the Id. CIT(A). The Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs Mst. Katiji (1987) 167 ITR 471 and also the Hon'ble Mumbai High Court in the case of Sunil Chandra Vohra Vs ACIT (2009) 32 SOT 365 (Mum) have held that for substantial interest of justice, technical delay should be ignored. Applying the propositions of law laid down in the above judicial pronouncements to the facts of the instant case, I found that there was sufficient reasons for delay in filing the appeals before the Id. CIT(A), therefore, in the substantial interest of justice, I condone the delay in filing the appeals and the matter is restored back to the file of the Id. CIT(A) for deciding the matter afresh as per law in terms of provisions of Section 250(6) of the Act.

8. In the result, all the nine appeals of the assessee are allowed in part for statistical purposes in terms indicated hereinabove.

Order pronounced in the open court on 26/03/2019.

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 26th March, 2019.

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Oriental Bank of Commerce, Jaipur
2. प्रत्यर्थी / The Respondent- The DCIT (TDS), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1471, 1475, 1476, 1480, 1483, 1485, 1486, 1487 & 1489/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar