



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

**BEFORE SHRI. A. D. JAIN, VICE PRESIDENT  
AND SHRI T. S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.170/ALLD/2013  
Assessment Year: 2008-09

Kanoria Chemicals Industries Ltd. (Now Aditya Birla Chemicals (India) Ltd.), Renukoot, Sonbhadra	v.	Income Tax Officer (TDS) Allahabad
TAN/PAN: ALDKO0214E		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri A.K.Singh, Sr. DR
Date of hearing:	10   02   2020
Date of pronouncement:	11   02   2020

**ORDER**

**PER A. D. JAIN, V.P.:**

This is assessee's appeal against the order of the ld. CIT(A), Allahabad dated 29/02/2013 for assessment year 2008-09, taking the following grounds:

1. BECAUSE the learned Commissioner of Income Tax (Appeals) has erred in law and on facts in holding that appellant has not pointed out any mistake in the order of Income Tax Officer (TDS) with regards to short deduction and accordingly sustained the demand on account of short deduction of tax at source out of salary paid to the staff.
2. BECAUSE the appellant has deducted the tax at source out of salary paid to staff at the rate in force for the year relevant to the assessment year 2008-09 and deposited the tax so deducted to the credit of Central Government.
3. BECAUSE the appellant has furnished the complete details of salary paid and tax deducted at source in

quarterly return filed in Form No. 24, for the 4th Quarter and there is no short deduction of tax at source, the contrary finding of the authorities below are based on conjecture and surmises and not on the basis of any material on record.

4. BECAUSE the learned Commissioner of Income tax (Appeals) has erred in law and on facts in holding that unless NSDL acknowledges the payment in respect of the form submitted, the credit for tax deposited of Rs. 1208340/- cannot be given.

5. BECAUSE the appellant has deposited the tax in the designated branch of the bank in prescribed challan form, the learned Commissioner of Income Tax (Appeals) should have allowed the credit in spite of any mismatch between the collecting bank and NSDL.

6. BECAUSE the appellant denies for interest charged under section 201(1A) of the Income Tax Act, 1961.

2. None has appeared on behalf of the assessee, despite issuance of notice through RPAD, which has not returned unserved. However, we find that this appeal can be disposed of in the absence of the assessee. Therefore, we proceed to dispose of the appeal after hearing the ld. D.R. and after considering the material placed on record.

3. This is second round of appeal before the Tribunal. In the first round, the appeal was dismissed ex-parte qua the assessee, vide order dated 9/5/2016, which was recalled, vide order dated 23/7/2018 in M.A. no.43/Alld/2016. Now, the appeal, in second round, is fixed before this Bench.

4. Heard. We find that the assessee had filed e-TDS statement before the Assessing Officer, who, on verification, found default therein and therefore, he treated the assessee as an 'assessee in default' for short deduction/collection of tax and

directed to pay the total tax liability of Rs.39,05,330/-, including interest, by passing an order, dated 24/2/2011 under section 201(1)/201(1A) of the Act. The submission of the assessee before the Id. CIT(A) was that full amount of tax deducted was deposited in the Government account, vide challan no.633, dated 7/4/2008 for Rs.12,08,340/-; that but by mistake the challan number was mentioned as 663 in place of 633; that the NSDL website is, therefore, showing mismatch; and that the assessee had revised the return with correct challan number on 11/1/2011. The Id. CIT(A) dismissed the appeal of the assessee, observing that the demand comprise of short deduction, amounting to Rs.16,84,500/- and short payment, amounting to Rs.12,08,340/- in addition to interest thereon, under section 201(1A) of the Act; and that it is very difficult to ascertain the correctness of the challan at his end.

5. The submission of the assessee before the authorities below was that it has sincerely and honestly paid the tax in the Government account, but the challan number has wrongly been mentioned. If the assessee has paid the due tax, the assessee cannot be held to be an assessee in default and the benefit of the same be given to the assessee. However, this requires verification at the level of the Assessing Officer. The Income Tax Officer (TDS) shall make necessary verification of the documents and if the TDS has already been paid, as contended by the assessee, he may revise the order accordingly. We, therefore, set aside the order of the Id. CIT(A) and remit the matter to the file of the Assessing Officer to decide the issue afresh on affording due opportunity of hearing to the assessee. With regard to the deduction of tax, amounting to Rs.16,84,500/-, no submission has been made by the assessee either before the Id. CIT(A) or

before us. This will also be verified by the Assessing Officer on affording due opportunity of hearing to the assessee.

6. In the result, for statistical purposes, the appeal is allowed for statistical purposes.

Order pronounced in the open Court on 11/02/2020.

Sd/-  
[T. S. KAPOOR]  
ACCOUNTANT MEMBER

Sd/-  
[A. D. JAIN]  
VICE PRESIDENT

DATED:11/02/2020

JJ:1002

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

By order

Assistant Registrar