

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E' DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
Dr. B.R.R. KUMAR, ACCOUNTANT MEMBER**

I.T.A. No.3011/DEL/2018
Assessment Year: 2014-2015

Lokendra Prashad Asthana, R-165, Greater Kailash-I, New Delhi.	vs.	ACIT, Circle-61(2), New Delhi.
TAN/PAN: ADOPA8039N (Appellant)		(Respondent)

Appellant by:	Shri Arun Kishore, CA		
Respondent by:	Shri B.M. Singh, Sr. DR		
Date of hearing:	10	11	2021
Date of pronouncement:	14	02	2022

ORDER

PER Dr. B.R.R. KUMAR, AM

The aforesaid appeal has been filed by the assessee against the impugned order dated 20.02.2018 passed by Commissioner of Income Tax (Appeals)-XX, New Delhi for the Assessment Year 2014-15.

2. The assessee is an advocate by profession and derived income from business or profession, income from salary, income from house property and income from other sources. In this case, the Assessing Officer had made an addition of Rs.3,78,294/- as the assessee had failed to show the TDS deducted at Rs.3,78,294/- on the total interest receipt of Rs.37,82,921/- as per the details of 26AS. 3. Before the ld. CIT(A), the assessee submitted that it was following cash

system of accounting in the interest income when received are included in the gross receipts. The assessee has also submitted that the credit of this TDS be allowed as deduction out of the said tax as per Section 199 of the Act. Id. CIT(A) held that the provision of Section 198 of the Act provides that the tax deducted at the source shall be deemed to be the income received for the purpose of computing the income of the recipient and hence there is no merit in the arguments of the assessee. Holding, thus, the Id. CIT(A) has confirmed the addition of Rs.3,78,294/- that the amount of TDS deducted.

3. Before us, it was submitted that the provisions of Sections 192(1)(A), 198 and 199 reads as under:

Section 192(1)(A)

Without prejudice to the provisions contained in sub-section(1), the person responsible for paying any income in the nature of a perquisite which is not provided for by way of monetary payment, referred to in clause (2) of section 17, may pay, at his option, tax on the whole or part of such income without making any deduction there from at the time when such tax was otherwise deductible under the provision of sub-section(1).

Section 198

All sums deducted in accordance with [the foregoing provisions of this Chapter] shall, for the purpose of computing the income of an assessee, be deemed to be income received.

[provided that the sum being the tax paid, under sub-section (1A) of section 192 for the purpose of computing the income of an assessee, shall not be deemed to be income received.].

Section 199

- (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.
- (2) Any sum referred to in sub-section (1A) of Section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.
- (3) The Board may, for the purpose of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules of the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.]

4. The assessee has filed the details of income and TDS claimed which is as under:

Details of Income and TPS Claimed / As Per 26AS / Disallowed u/s 198 / and Error

S. No.	Particulars	Gross Income Declared/ Assessed	TDS Claimed & Included on Income as per BTR	TDS As Appearing in 26AS	Taxed by the AO As Income u/s 198	Amount Excess adopted by A.O.
1)	Professional fee (u/s 194J)	12,021,992	1,173,197	1,083,187	NIL	-
2)	Intt.(u/s 194A:)					
	a) HDFC Bank	2,196,975	219,697	269,537	269,537	219,697.00
	b) Andhara Bank	34,472	3,447	-	-	-
	- Andhara Bank	474,818	47,981	26,743	NIL	-
	c) ICICI Bank	-	-	8,672	8,672	0
	d) Housing Dev. Fin. Corp.	-	-	100,084	100,084	-
3)	Post office Intt. u/s 194A	135,000	13,500	13,500	-	-
4)	Salary/Pension u/s 192	826,975	57,650	57,650	-	-
	Total	15,690,232	1,515,472	1,559,373	378,293	219,697

Net Short Fall of Income if any on account of TDS taxable

u/s 198

43,901.00

1,559,373.00 1,559,373

5. Since, it is a matter of reconciliation, the issue is being remitted back to the file of the AO and take a decision in accordance with the provisions of the law.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 14/02/2022

Sd/-

**[AMIT SHUKLA]
JUDICIAL MEMBER**

DATED: 14/02/2022

Prabhat

Copy forwarded to:

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

Sd/-

**[Dr. B.R.R. KUMAR]
ACCOUNTANT MEMBER**

Assistant Registrar