

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SH. VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER

ITA No.146/NAG/2017
(ASSESSMENT YEAR 2006-07)

District Health Officer Zilla Parishad Near Nagar Parishad Washim-444 505 PAN: NGPD0 2781C (APPELLANT)	Vs.	Income Tax Officer,(TDS) Ward-1(2) Akola-444 002 (RESPONDENT)
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Appellant by	Sh. Mahendra L. Vairagade,Adv.
Respondent by	Sh. Rajeev Benjwal,CIT-DR

Date of Hearing	06.06.2022
Date of Pronouncement	08.06.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals)-2, Nagpur, ["Ld. CIT(A)", for short], dated 12/01/2017 for Assessment Year 2006-07.

2. The brief facts of the case are that, the assessee is a District Health Officer in the Department of Zilla Parishad, Washim. The order u/s 201(1)/201(1A) of the Income Tax Act came to be passed on 14.03.2011 by

declaring the assessee as 'Assessee in default', wherein the assessee has been directed to pay total tax liability of Rs.6,70,890/-.

3. Aggrieved by the order dated 14.03.2011, the assessee has preferred an appeal before the Ld. CIT(A)-2, Nagapur. After filing the appeal, the assessee has not participated in the proceedings before the CIT(A), the Ld. CIT(A) passed the order by dismissing the appeal filed by the assessee on 12.01.2017.

4. Aggrieved by the order dated 12.01.2017, the assessee has preferred the present appeal on following grounds:

"1.The assessee office is a government office and Tax deposited by book entry or book adjustment so tax amount was not in the hands of present assessee,it was deposited by book entry/book adjustment.

2) In the assessment year 2006-07 the assessee office file E-TDS statement through Tin centre, there was one clerical mistake occurred while preparing the e-TDS statement, assessee show that the Income tax deposited by their employee by challan instead of book entry. The assessee was not aware of the said mistake that time because clerical staff of the assessee were not having sufficient knowledge of the Income Tax therefore such mistake was occurred.

3) The assessee had already paid all the taxes through treasury office.

4) That the learn CIT(appeal) has without looking into the matter rejected the appeal of present assessee and held that the present assessee was not present for hearing, infact in the notice for hearing it was specifically mentioned that attendance is not necessary."

5. The Ld. Counsel for the assessee submitted that, the assessee had already paid all the tax through treasury office and there is no tax due from the end of the assessee and further contended that, the Ld. CIT(A) has not afforded

the reasonable opportunity to the Assessee to produce the documents in support of the Assessee and without deciding the Appeal on merit dismissed the appeal. Therefore, assessee prayed for setting aside the matter to the Lower Authorities for proper adjudication of the matter.

6. Per contra, the Ld. Department Representative fairly submitted that an opportunity can be given to the assessee to place all the materials before the TDS officer to show that the assessee has already paid all the tax and there is not tax due from the ends of the assessee side.

7. On hearing both the sides, we deem it fit to set aside the matter to the file of TDS officer for examining the claim of the assessee that the assessee has already paid all the tax through treasury office and there is no tax due. Accordingly, we allow the grounds of appeal for statistical purposes and remand the matter to the file of TDS officer for fresh consideration after giving an opportunity to the assessee of being heard. We direct the Assessee to participate in the proceedings and produce documents if any.

8. In result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on this 8th Day of June, 2022.

Sd/-

(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Dated: 08/06/2022

PK/Sps

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT
6. Guard File

True Copy

By Order

Assistant Registrar,
Income Tax Appellate Tribunal,
Nagpur Bench, Nagpur