

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
Dr. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 7493/Del/2018
[Assessment Year: 2010-11]**

Punjab National Bank, G.T. Road, Karnal-132001 PAN:AAACP0165G	<u>Vs</u>	DCIT, TDS Circle, Panchkula.
APPELLANT		RESPONDENT

Assessee represented by:	Sh. S. Krishnan, Adv.
Department represented by:	Sh. S.L. Verma, Sr. DR
Date of hearing	18.01.2023
Date of pronouncement	.01.2023

ORDER

PER N.K.CHOUDHRY, JM:

The assessee has preferred the instant appeal against the order dated 27.09.2018, passed by the Ld. Commissioner of Income tax (Appeals), Karnal, (in short "Ld. Commissioner") u/s 250(6) of the Income Tax Act, 1961 (in short "the Act"), pertaining to the assessment year 2010-11.

2. In the instant case it was observed by the AO that the assessee did not deduct the TDS u/s 194A of the Act on the payment made on account of interest to the following persons/payments, which are detailed below:

Sr. No.	Name and address /PAN	Amount of interest	TDS liable to be deducted @ 10%	TDS deducted	Balance deductible	Interest u/s 201(1A) of the I.T. Act 1961 @ 1% per month ⁰	Total TDS @ Interest payable
1.	Madan pal Singh & Saroj Bala/ CTIPS0487G	226364/ -	22636/-	0	22636/-	19014/-	41,650/-
2.	Rajinder kumar & Anupam/ ABEPG4516C	187121/ -	18712/-	0	18712/-	15718/-	34,430/-
3.	Prem Chand /AGVPC0121B	699480/ -	69948/-	0	69948/-	58756/-	1,28,704/-
4.	R.C. Sahunja & Chander Kanta/ AEKPS5204A	206079/ -	20,607/-	0	20,607/-	17309/-	37,916/-
	Total				1,31,903/-	1,10,797/-	2,42,700/-

Therefore, the AO raised the demand of Rs. 1,31,903/- u/s 201(1) of the Act and Rs. 1,10,797/- as interest u/s 201(1A) of the Act @ 1% per month.

3. The assessee being aggrieved, challenged the said demand raised by the AO, before the learned Commissioner, who vide impugned order affirmed the said addition/demand by concluding as under:

"I have examined the facts of the case, the

submissions made by the assessee and the remand report of the A.O. It is seen that the appellant had not deducted tax on interest paid to 4 depositors in contravention of the provisions of Section 194A of the I.T. Act, 1961. No documentary evidences have been submitted by the appellant to bolster its case as to why tax was not required to be deducted. The assessee has, therefore, failed to discharge its onus in respect of the question of law raised by the A.O. In the circumstances, the addition is confirmed.”

4. The assessee being aggrieved is in appeal before us.
5. At the outset the learned AR of the assessee submitted that the deductees/parties to whom interest has been paid by the assessee, have already declared the interest paid by the assessee in their respective returns and consequently also paid the due tax thereon and, therefore, no such demand/addition is warranted.
6. We have given thoughtful consideration to the peculiar facts and circumstances. Though the assessee has failed to produce the relevant documents qua its claim before the authorities below, however, considering the peculiar facts and circumstances, we are inclined to remand the instant case to the file of the AO for factual determination by summoning the deductees/parties as to whether they have shown the amount of interest received from the assessee in their returns of income and paid the relevant tax or not.

We clarify that primary onus would be on the assessee to establish/substantiate its case/claim as claimed before us.

7. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in open court on 18.01.2023.

Sd/-
(Dr. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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