

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1663/Del/2020
Assessment Year: 2018-19

Kushal Navlakha, 5A/19, Ground Floor, Ansari Road, Darya Ganj, New Delhi-110002 PAN No.AAEPN3390E (APPELLANT)	Vs	DCIT CPC New Delhi (RESPONDENT)
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Appellant by	Sh. Girish Gupta, CA
Respondent by	Sh. Vivek Vardhan, Sr DR

Date of hearing:	17/07/2023
Date of Pronouncement:	17/07/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-10, New Delhi dated 04.08.2020 pertaining to A.Y. 2018-19.

2. The grievance of the assessee read as under :

1. *That in facts and circumstances of the case, the order passed u/s. 250(6) of the Act by the Ld. CIT(A)-10 against*

the Assessee holding that the claim of TDS by the Assessee has been rightly disallowed by the DCIT (CPC) Bengaluru, is wrong, passed without following due process of law and in thus void ab initio, which needs to be struck down.

2. That in facts and circumstances of the case, the Ld. CIT(A) has wrongly held that the Assessee should follow up with the deductor and persuade the tax deducted at source to enable the Assessee to get the credit of tax deducted as this is illogical, without any sanctity of law and thus the disallowance of tax deducted, needs to be struck down.

3. That in facts and circumstances of the case, the Ld. CIT(A) has wrongly held that the Assessee has merely made assertions and does not have any corroborating document or any supporting evidences available with the Assessee to prove that the tenant of the Assessee deducted tax at source out of rent payments made to the Assessee as this is completely wrong and incorrect and thus the order of the CIT(A) needs to be struck down.
Rs.52,200/-

4. That in facts and in circumstances of the case the order of the CIT(A), by holding that, both, deduction of tax and subsequent deposit of such tax by the deductor are mandatory to give the credit of tax to the deductee, is bad in law, incorrect and arbitrary and thus the disallowance needs to be struck down.

5. *That in facts and in circumstances of the order of Ld. CIT(A) is unjust, incorrect and arbitrary as he has not followed the provisions of the Act and not followed various judicial precedents of various higher courts in true letter and spirit which are in favour of the Assessee and thus the order of the Ld. CIT(A) needs to be struck down.*

6. *That in facts and circumstances of the case the order of the Ld. CIT(A) is incorrect, unjust and bad in law as the disallowance of TDS is a debatable issue and the same cannot be disallowed in order u/s. 143(1) of the Act and thus the disallowance needs to be struck down.*

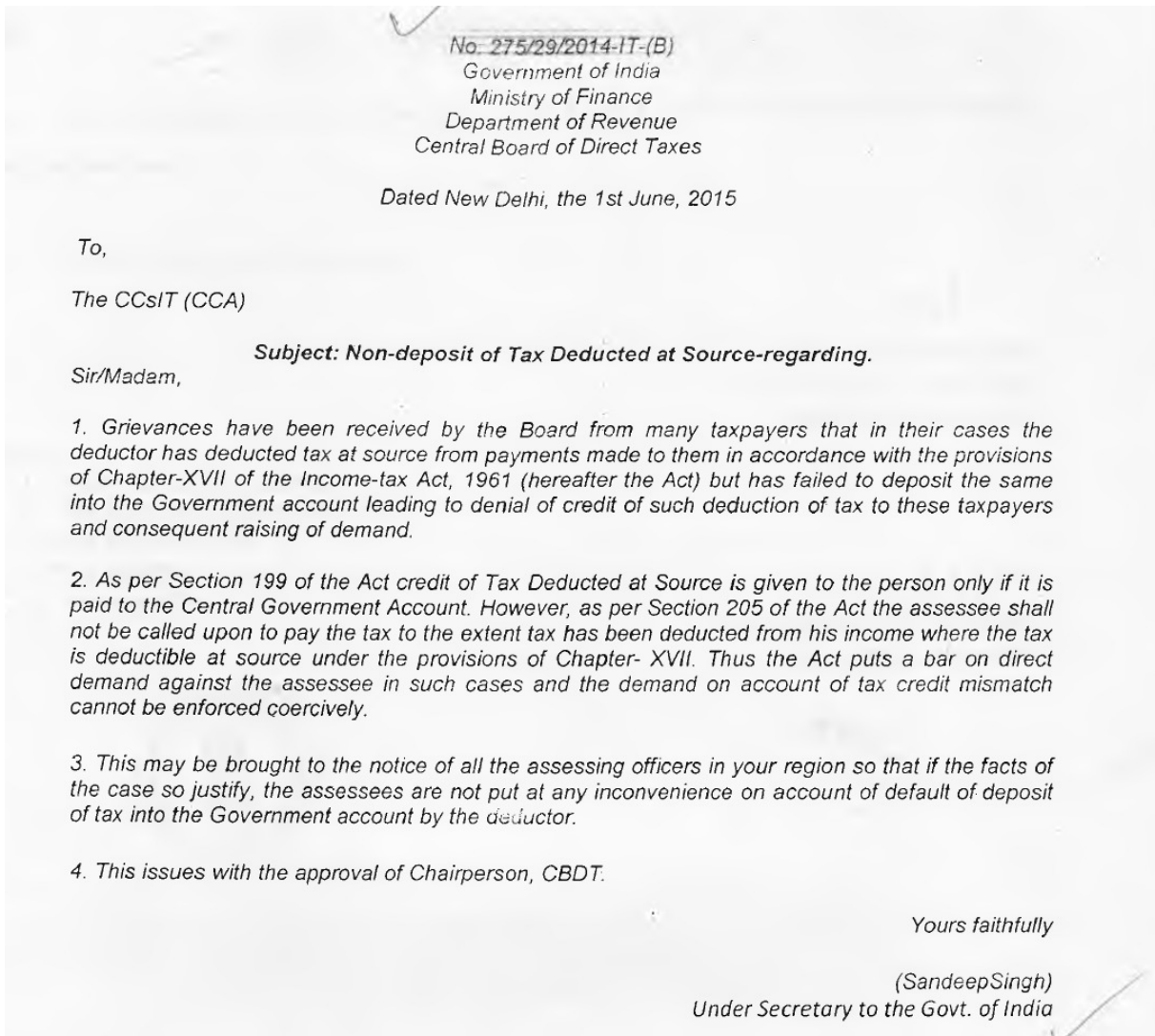
7. *The appellant craves leave to add, alter amend, vary, and/ or withdraw any or all of the above grounds of Appeal.*

3. The sum and substance of the grievance of the assessee is that because the TDS deducted by the tenant amounting to Rs.52200/- was not deposited in the Government account the AO erred in recovering the amount from the assessee.

4. Briefly stated the facts of the case are that the assessee has let out its property to Mr. Rajeev Dhingra at a gross rent per month of Rs.43500/- totaling to Rs.522000/-on which Mr. Dhingra deducted tax at source @ 10% amounting to Rs.52200/-. It is an undisputed fact that Mr. Dhingra did not deposit this amount in the Government account and, therefore, the credit for TDS was denied by the AO.

5. On such facts we cannot direct the AO to give the credit of TDS the appeal of the assessee has to be dismissed.

6. However, in the interest of justice it would not be out of place to quote following CBDT circular :-



7. In the light of the aforementioned CBDT circular, though we have dismissed the appeal of the assessee, yet we direct the AO not to take any recovery action for the outstanding tax liability

keeping in mind the mandate of aforesaid CDBT circular. With these directions the appeal is dismissed.

8. Decision announced in the open court on 17.07.2023.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Dated: .07.2023

Neha

Copy forwarded to:

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

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Asst. Registrar
ITAT, New Delhi