

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

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

श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.257/Viz/2017
(निर्धारण वर्ष/Assessment Year:2010-11)**

M/s Tamilnad Mercantile Bank Ltd.,
#11-25-18, Ground Floor
KT Road, Vijayawada

Vs Dy.Commissioner of
Income Tax (TDS)
Circle-3(1)
Vijayawada

[PAN :HYDT01810E]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से / Respondent by

: Shri D.L.Narasimha Rao, AR
: Shri V.Rama Mohan, DR

सुनवाई की तारीख / Date of Hearing

: 26.02.2020

घोषणा की तारीख/Date of Pronouncement

: 06.03.2020

आदेश /ORDER

Per Shri D.S.Sunder Singh, Accountant Member :

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)], Vijayawada in ITA No.95/CIT(A)/VJA/2012-13 dated 30.12.2016 for the Assessment Year (A.Y.)2010-11.

2. Ground No.1 and 7 are general in nature which do not require specific adjudication.

3. Ground No.3 to 6 are not argued by the Ld.AR during the appeal hearing. Therefore Ground No.3 to 6 are dismissed as not pressed.

4. Ground No.2 is related to the interest payments levied u/s 201(1) and 201(1A) of Rs.68,24,522/- which was sustained by the Ld.CIT(A). Brief facts of the case are that the assessee is a Banking company and a Survey u/s 133A was conducted in this case on 14.09.2009 and the Assessing Officer (AO) found that the assessee has paid the interest on deposits to the extent of Rs.6,00,34,859/- out of which the AO found that the interest payment of Rs. 3,80,32,971/- was within the threshold limit for deduction of tax at source. The AO also found that the assessee has not aggregated the interest payments made to single depositor having multiple accounts, in which case, the payment exceeds the threshold limit for deduction of tax at source u/s 194A of the Act. The AO further observed that the deposits made in the joint names was not aggregated for arriving the liability for deduction of TDS and found that aggregate interest exceeds the threshold limit for deduction of tax at source. Therefore, the AO treated the assessee as assessee in default for non-deduction of tax at source u/s 194A to the

extent of interest payment of Rs.2,32,63,095/- and arrived the liability u/s 201 and 201(1A) of the Act as follows :

<u>201(1)</u>	<u>201(1A)</u>	<u>Total</u>
Rs.26,35,708/-	Rs.7,90,710/-	Rs.34,26,418/-

4.1 The AO also treated the assessee as assessee in default for non-submission of Form 15G and 15H to the extent of Rs.1,00,042/- u/s 201(1) and Rs.30,000/- u/s 201(1A) aggregating to Rs.1,32,042/- in the case of joint deposit as per circular No. 256 of the Act.

5. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) allowed the appeal of the assessee on interest payment in respect of 15G and 15H. In respect of deposits held in joint names, the Ld.CIT(A) viewed that the TDS required to be deducted on aggregate amounts of interest payments where it exceeded the threshold limit. The Ld.CIT(A) considered the CBDT's letter to Indian Bank Association (IBA) on bank deposits in F.No.131/51/95-TPL, wherein the Board has clarified to the queries raised by IBA in letter No.OPR/10-42/2056 dated 09.08.1995, that in case of deposits in joint names, the applicability of provisions u/s 194A with reference to the limit of Rs.10,000/- to be considered only in the hands of first deposit holder.

Accordingly, the Ld.CIT(A) deleted the TDS liability u/s 201 and interest u/s 201(1)(1A) to the extent of Rs.5,03,108/- in 82 cases and confirmed the amount to the extent of Rs.68,24,522/- in 162 cases after examination of the details filed by the assessee before the Ld.CIT(A).

6. Against which the assessee is in appeal before us. During the appeal hearing, the Ld.AR argued that the AO has followed the Circular No.256 and treated the assessee as assessee in default to the extent of Rs.2,32,63,095/-, out of which the issue in dispute was only with regard to the interest payments covering joint accounts to the extent of Rs.72,40,704/-. On this issue, the AO followed Circular No.256, wherein, it was held that TDS required to be deducted with highest depositor, whereas clarification given by CBDT to bank was in the hands of first deposit holder. The Ld.A.R. argued that if the clarification of IBA is taken into consideration, there would be no tax liability for TDS as far as joint holders are concerned. The Ld.AR argued that this issue was not considered correctly by the AO and there was a calculation mistake in the computation of TDS liability in respect of joint holders, therefore, requested to remit the matter back to the file of the AO for computing the correct liability of TDS in the case of joint deposit holders. Accordingly requested to set aside the issue and

matter back to the file of the AO. For a query from the bench to submit the detailed calculation of tax liability of the first deposit holders, the Ld.AR expressed his inability to furnish the details.

7. On the other hand, the Ld.DR argued that as seen from the order of the AO as well as the Ld.CIT(A), the assessee failed to furnish the details in spite of giving number of opportunities. Therefore, argued that no fruitful purpose would be served in the absence of the details, therefore, requested to dismiss the appeal of the assessee.

8. We have heard both the parties and perused the material placed on record. The only issue in this case is tax liability on joint deposit holders. As per the information placed before the Ld.CIT(A) in para No.5.1.2 of the order of the Ld.CIT(A), the interest payments covering joint accounts was Rs.72,40,704/-. The Ld.CIT(A) considered the clarification letter issued by CBDT to Indian Banks Association and allowed partial relief to the assessee. As seen from the order of Ld. the CIT(A), we observe that the Ld.CIT(A) examined the details and confirmed the amount to the extent of Rs.68,24,522/- in respect of 162 cases. During the appeal hearing, for a query from the bench, the Ld.AR neither furnished the actual tax liability nor furnished the details. The case was posted for hearing in as many as 20

occasions and the A.R continuously taken the adjournment. The appeal was filed was way back on 03.05.2017 and the Ld.A.R. could not explain the mistake in the order of the Ld.CIT(A). In the instant case, the Ld.AR could not bring any mistake of calculation of tax liability u/s 201 and 201(1A). Therefore, we are unable to accept the contention of the Ld.AR that there was mistake in the tax calculation. From the order of the Ld.CIT(A), we observe that the Ld.CIT(A) has correctly calculated the TDS liability in respect of 162 cases and the assessee failed to show that there was mistake in the order of the Ld.CIT(A). Therefore, we find no error in the order of the Ld.CIT(A) and the same is upheld.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 6th March, 2020.

Sd/- (वी.दुर्गा राव) (V. DURGA RAO)	Sd/- (डि.एस. सुन्दर सिंह) (D.S. SUNDER SINGH)
न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य/ACCOUNTANT MEMBER	
विशाखापटणम /Visakhapatnam	
दिनांक /Dated : 06.03.2020	
L.Rama, SPS	

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee- M/s Tamilnad Mercantile Bank Ltd., #11-25-18, Ground Floor, KT Road, Vijayawada
2. राजस्व/The Revenue – Dy.Commissioner of Income Tax (TDS), Circle-3(1) Vijayawada
3. The Commissioner of Income Tax (TDS), Vijayawada
4. The Commissioner of Income Tax (Appeals), Vijayawada
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam