

Co-owner gets full credit of sec. 194-I TDS as it paid to other co-owners their share in TDS

Summary – The High Court of Calcutta in a recent case of Ganesh Narayan Brijlal Ltd., (the Assessee) held that where assessee, co-owner of a property, paid share of rental income to other co-owners without deducting TDS amount from rent received from tenant and no TDS credit was claimed by other co-owners, assessee would be entitled to credit of tax deducted at source in its entirety

Facts

- The assessee-company was joint owner of a property. It sold certain portion of the said property to 3 other companies. The assessee received rental income from property in its entirety. It paid the co-owners of the property their respective share which included the amount of tax deducted at source. The assessee, claimed the benefit of tax deducted at source in its entirety.
- The Assessing Officer rejected the claim of the assessee and made addition to its income.
- However, the Tribunal deleted additions made by the Assessing Officer accepting assessee's claim.
- On appeal before the High Court, the revenue argued that even though the entire rent was received by the assessee, the same was not filed as income in return. Thus, the said rental income belonged to the assessee only partially and he could not claim the benefit of tax deducted at source in its entirety.

Held

- The assessee is undoubtedly an owner of the property but he is not an absolute owner. His ownership is restricted to a certain percentage of the right in the property. The assessee has collected the rent payable with respect to the property in its entirety and thereafter has passed on the rent including the amount deducted on account of the tax to the other co-owners. There is, as such, no reason why the assessee should not be entitled to enjoy the benefit of tax deducted at source when the assessee has paid the share of the co-owners including the share in the amount of tax deducted at source.
- The question is, therefore, answered in the affirmative and against the revenue.