

Penalty for delay in filing of TDS return couldn't be levied if there was difficulty in obtaining PANs of deductees

Summary – The Jaipur ITAT in a recent case of Argus Golden Trades India Ltd., (the Assessee) held that where in view of change in IT system requiring furnishing details of PANs of all deductees for validation and uploading of e-TDS return, assessee delayed in filing its return in making efforts to obtain such details of deductees spreading throughout country, no penalty could be levied

Facts

- The assessee-company belatedly filed quarterly e-TDS returns.
- The Assessing Officer imposed penalty under section 272A(2)(k) holding that the assessee delayed in filing quarterly e-TDS return within stipulated time frame.
- On appeal, the Commissioner (Appeals) upheld the levy of penalty and observed that the total delay was of 1024 days; hence, it revealed a wilful attempt for non-compliance of statutory provisions. It further observed that the assessee was not having any genuine ground or the compelling circumstances for not filing of TDS return in time.
- On second appeal before the Tribunal:

Held

- Firstly, the penalty has been levied under section 272A(2)(k) which talks about the failure to deliver a copy of the statement within the time specified in section 200(3) or proviso to section 206C(3). In the instant case, there is no such factual situation rather there is a delay in filing of quarterly e-TDS returns which is covered under the provisions of section 272A(2)(c). Hence, on this ground itself, where the Assessing Officer is not clear about basis of the charge, the levy of penalty cannot be sustained.
- On merits, during the financial year 2010-11 which is under consideration, there was a change which was brought about in filing of e-TDS returns wherein there was a necessity to mention 100 per cent valid Permanent Account Numbers of the payee to whom the payment has been made and TDS done in such payment in the e-TDS return and thereafter only the e-TDS return can be validated and uploaded in the IT system. The same has been the position of the CBDT *vide* its notification dated 31-5-2010. The assessee has submitted that since there were large number of deductees scattered throughout the country, a fact not disputed by the revenue, it took them some time to collect the PANs of these deductees and thereafter, it was able to upload the e-TDS returns in the IT system maintained by the revenue. Further, the taxes have deducted and deposited at the prescribed rate with delay of few days. Hence, there is no loss to the revenue which is caused due to the delay in

filing of the e-TDS returns which is totally unintentional. Given the peculiarity of the facts in the present case where there was a change effected in the IT system for mandatory requirement of PANs of all deductees before the returns can be validated and uploaded, the fact that there were large number of deductees spread throughout the country and efforts were made by the assessee to obtain their PANs numbers, the fact that taxes have been deducted and deposited, hence no loss to the revenue, the assessee has a reasonable cause for delayed filing of its e-TDS returns in terms of section 273B and the penalty under section 272(A)(2)(k) is hereby deleted.