

No Sec. 194H TDS on cash discount given to customers for purchasing goods in bulk

Summary – The Kolkata ITAT in a recent case of EPCOS India (P.) Ltd., (the Assessee) held that Cash discount given by assessee to its customers for purchasing goods in bulk quantity was in nature of discount in transaction of sale and, therefore, section 194H had no application to said transaction

Facts

- The assessee-company was engaged in the business of manufacturing and sale of soft ferrite components, DC and AC capacitors, metalized films etc. The assessee had claimed expenses under the head 'trade discount and cash discount' which were given by it to its customers on account of bulk quantity of goods purchased by them.
- The Assessing Officer was of the view that an amount of discount offered by the assessee was nothing but commission expenses which was liable for deduction of TDS under section 194H.
- On appeal, the Commissioner (Appeals) deleted the addition made by the Assessing Officer by observing that the assessee had claimed deduction for cash discount and trade discount allowed to the customers for purchasing the product of the assessee in bulk quantities under section 37(1). Offering of discount for purchase in bulk would partake the character of discount on transaction of sale and as such the provision of section 194H has no application. The offering of discount for purchasing the quantity in bulk by the customers could not be treated as payment of commission to the customers specially when the sale was happening on a principal to principal basis. Hence, the Assessing Officer was directed to allow deduction claimed for cash/trade discount.
- On appeal to the Tribunal:

Held

- The issue, in the instant case, relates to whether the amount of commission offered by the assessee is in the nature of commission as envisaged under section 194H. At this juncture, it is important to refer to the meaning of commission or brokerage as provided in explanation to section 194H. From the said provision, it is clear that some services should be provided by the person or any other services in the course of buying and selling of goods. In the instant case, the assessee has been supplying goods to its dealers on principal to principal basis, there was no relationship between the assessee and its customers as of principal and agents, therefore, the amount of discount offered by the assessee could not be termed as commission under section 194H. There is no dispute that the discount was offered by the assessee to its dealers in relation to the sales made by it to them. Thus, the provisions of section 194H does not apply to the impugned discount offered by the assessee. Thus, there was no reason to interfere in the order of Commissioner (Appeals). Hence the ground of appeal filed by the revenue is dismissed.