No penalty on late filing of TDS return if tax was deducted and deposited in time: Delhi ITAT

Summary – The Delhi ITAT in a recent case of Haryana Distillery Ltd., (the Assessee) held that where on filing belated TDS returns/statements, revenue had not suffered any loss because TDS was already deposited on time, penalty need not be levied for submitting return belatedly due to reasonable cause

Facts

- The assessee-company was engaged in business of production of potable country liquor/Alcohol. As per information available with the department, the person responsible in the instant case had deducted and deposited TDS/TCS but failed to file the requisite return within the stipulated period.
- The Assessing Officer levied penalty under section 272A(2)(*k*).
- The assessee submitted before the Commissioner (Appeals) that the licensees of liquor being small operators did not obtain PAN. It was further contended that in the absence of necessary details, the prescribed limit of collection of 85 per cent PAN particulars of the persons in respect of which a collector had to file TCS return, would not be complied with. In respect of late filing of Form-24Q, it was pointed-out that the Manager Accounts, of the assessee-company was on leave due to serious illness and in his absence, the filing could not be done at the appropriate time. The taxes by way of TCS/TDS had been duly deducted and deposited in time and details had been duly given to the deductee. So, no loss was caused to the revenue. Thus, no penalty could be levied under section 272A(2)(*k*).
- The Commissioner (Appeals), however, did not accept the contention of assessee on the ground that it was a statutory requirement on the part of the assessee to deduct tax and deposit the amount with the Government and further required to submit the requisite statement as per the provisions of section 200(3). The assessee had failed to comply with the provision of law. Therefore, the appeal of the assessee were dismissed by the Commissioner (Appeals).
- On appeal to the High Court:

Held

- Section 272A(2)(k) provides penalty for failure to deliver or cause to deliver a copy of the statement within the time specified in sub-section (3) of section 200 or the proviso to sub-section 3 of section 206(c). section 273B provides that no penalty shall be imposed on the person or the assessee as the case may be for any failure referred to in the said provision, if assessee proves that there was a reasonable cause for the said failure. It is an admitted fact that assessee deducted tax on time and deposited with the Revenue Department on time. There was only a technical or venial breach to the provisions contained above, requiring the assessee to submit the quarterly return statements of tax deducted at source within the time provided under the Law. It is not a case of the revenue that

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assessee did not file the required statements with the Revenue Department. The requisite statement/returns have been filed belatedly, for which, penalty have been imposed. The assessee explained the reasons for this default because the concerned parties did not provide PAN and other details on time. Therefore, in the absence of the complete details, the requisite return/statement could not be filed on time. The assessee also pleaded that Manager, Accounts of the Company was on leave due to serious illness, therefore, there was no compliance on the part of the assessee within the time. The above facts clearly prove that the statement/returns to be furnished by the assessee within the time were entirely depending upon the information to be supplied by the purchasers. The assessee explained that the purchaser/licensee being small operator did not obtain PAN, therefore, particulars could not be filed in time. This was the reason for not filing the return/statement within the period of limitation. Further, the Manager, Accounts was ill, therefore, there was delay in making compliance. These facts clearly show that assessee had a reasonable cause for failure to comply with the provisions of Law. On filing the belated returns/statements, the revenue has not suffered any loss because tax deducted was already deposited on time with the Revenue Department. It was, therefore, a technical or venial breach to the provisions contained in the Act for submitting return statement of tax deducted at source. The above reasons are sufficient to hold that the penalty needed not be levied in the facts and circumstances of the case. Accordingly, the orders of the authorities below are to be set aside and the penalty for both the years is to be cancelled.

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