

Non furnishing of PAN to Tax department will not lead to disallowance on non-deduction of tax.

Summary – The Jaipur ITAT in a recent case of Arihant Trading Co., (the Assessee) held that Non furnishing of PAN to Tax department will not lead to disallowance on non-deduction of tax made under section 40(a)(ia)

Facts

- The assessee had incurred certain amount under the head 'freight expenses'. The assessee stated that it had not deducted TDS as provisions of section 194C(6) provided that no deduction was required to be made on sum paid or credited where the transporters had furnished their respective PANs to the assessee.
- The Assessing Officer stated that although this section grants relief to transporters, it puts an onus on the person paying such sum, to furnish this information in the prescribed form to the Income Tax authority. Hence, the AO concluded that the assessee failed to deduct tax at source against payments made/credited by it to the transporters and added back the expense to the income of the assessee.
- On appeal, the Commissioner (Appeals) held that in absence of contrary evidence, the assessee's submission that PAN details were provided by the transporters at the time of receiving the payment had to be accepted and once the transporters had provided their PAN details no deduction of tax was required to be made as per section 194C(6).
- On revenue's appeal to the Tribunal.

Held

- The Tribunal on examining the provisions of section 194C(6) and section 194C(7) concluded that all that is required for non-deduction of TDS on payment to the transporter is that the transporter should furnish his PAN number to the person responsible for paying or crediting the amount to him. The payer, on receipt of such PAN number, is obligated not to deduct TDS on such payments. Merely because there is non-compliance on part of the assessee to report the PAN details, it cannot be concluded that the assessee has defaulted for non-deduction of TDS.
- In view thereof, the ITAT did not find any infirmity in the order of the Commissioner (Appeals) and confirmed the same. The grounds of appeal taken by the revenue were thereby dismissed.