

## In case there was no reasonable cause for delay in deposit of TDS rigorous imprisonment of Assessee is justified

**Summary – The High Court of Karnataka in a recent case of Golden Gate Properties Ltd., (the Assessee) held that if there was no reasonable cause for delay in deposit of TDS rigorous imprisonment of Assessee is justified**

### **Facts**

- During a survey conducted under section 133A, the authorities detected that the assessee had deducted tax at source but failed to remit the same to the Central Government account and the assessee was asked to show cause as to why prosecution should not be launched.
- In reply, the petitioner admitted default and sought time to remit the admitted TDS liability, but remitted tax amount partially and failed to discharge the entire liability as undertaken.
- The Assessing Officer issued a letter directing the petitioner to remit the outstanding TDS liability. Later on, it was found that the petitioner had remitted TDS deducted by it after considerable delay of more than one year, that too, in consequence of survey conducted by the Department and repeated reminders.
- Since, the explanation given by the petitioner for said delay was not acceptable, the Commissioner (TDS) passed an order under section 279 authorizing the department to prosecute the petitioner for the offence punishable under section 276B read with section 278B.

### **Held**

- The HC held that as per the provision of section 278AA to avoid penal consequences the accused needs to show reasonable cause for failure to deposit the said amount. Since the material placed on record *prima facie* discloses that the petitioners have deducted tax at source but failed to credit the same to the account of the Central Government within the prescribed time, the petitioners cannot escape from the rigour of section 276B.