TDS Credit shall be given for the assessment year for which income is assessable

The Income Tax Appellate Tribunal, Delhi ("**the ITAT**") in ***Archana Airways Ltd v. ITO [I.T.A. No. 8755/DEL/2019 dated November 2, 2022]*** held that Tax Deduction at Source ("**TDS")** credit shall be given to the deductee for the Assessment Year ("**A.Y.**") for which such income is assessable under the Income Tax Act, 1961 ("**the IT Act**").

Facts:

M/s Archana Airways Ltd ("**the Appellant**") filed return for the A.Y. 2013-14 declaring total income at a loss of Rs. 62,324/-. The return was proceeded under Section 143 of the IT Act and got selected for scrutiny. The assessment order was passed by the Assessing Officer ("**AO**") on March 15, 2016 in which he disclosed the total taxable income of Appellant as Rs. 76,27,208/- under the head 'Income from Other Sources'. AO made an addition of Rs. 65,00,000/- for undisclosed credit under Section 68 of the IT Act and of Rs.11,89,532/- for interest earned on fixed deposits.

The Appellant then filed an appeal before the Commissioner of Income Tax (Appeal) ("**CIT(A)**") challenging the assessment order passed by the AO. The CIT(A) deleted addition of Rs. 65,00,000/- but sustained the addition of Rs. 11,89,532/- of interest on fixed deposits. The Appellant thus filed an appeal before the ITAT and stated that the said income cannot be said to have accrued in the A.Y. 2013-14, as it was accrued in the A.Y. 2017-18 after the order of Hon'ble High Court dated November 15, 2016 which has been physically received in the A.Y. 2017-18. The Appellant further submitted that he had offered for taxation of the said interest in the A.Y. 2016-17 and A.Y. 2017-18. Therefore, he was entitled for TDS Credit under Section 199 of the IT Act of such amount.

Issue:

1. Whether the addition of Rs. 11,89,532/- is justified made with respect to interest on Fixed Deposits Receipts ("**FDR**") to be deleted?

2. Whether, in case the interest is to be taxed in AY 2013-14, then credit for TDS deducted on interest should be given to the Appellant?

Held:

The ITAT held as under:

- The interest amount was subjected to tax in the year in which it was accrued i.e. A.Y. 2017-18. If it is also charged to tax in the A.Y. 2013-14, then it will amount to double taxation. Thus, the interest amount will not be taxable in the A.Y. 2013-14. Hence, the addition made by the AO deserves to be deleted.

- Further, as per Section 199 of the IT Act, credit for TDS shall be given to the Appellant for the A.Y. for which such income is assessable. Thus, the Appellant will be entitled to the TDS credit for the A.Y. 2017-18.

Hence, the Appeal filed by the Appellant was partly allowed.

Relevant Provisions:

Income Tax Act, 1961:

Section 68: Cash credits

Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

Provided that where the sum so credited consists of loan or borrowing or any such amount, by whatever name called, any explanation offered by such assessee shall be deemed to be not satisfactory, unless,-

(a) the person in whose name such credit is recorded in the books of such assessee also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that where the assessee is a company, (not being a company in which the public are substantially interested) and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless-

(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided also that nothing contained in the 5first proviso or second proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.

Section 143: Assessment

(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:-

(a) the total income or loss shall be computed after making the following adjustments, namely:-

(i) any arithmetical error in the return;

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;

(iv) disallowance of expenditure or increase in income indicated in the audit report but not taken into account in computing the total income in the return;

(v) disallowance of deduction claimed under section 10AA or under any of the provisions of Chapter VI-A under the heading "C.-Deductions in respect of certain incomes", if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

(vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made;

Provided also that no adjustment shall be made under sub-clause (vi) in relation to a return furnished for the assessment year commencing on or after the 1st day of April, 2018;

(b) the tax , interest and fee, if any, shall be computed on the basis of the total income computed under clause (a);

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax , interest and fee, if any, computed under clause (b) by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under section 89, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax , interest or fee;

(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and

(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

Provided that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax interest or fee is payable by, or no refund is due to, him:

Provided further that no intimation under this sub-section shall be sent after the expiry of nine months from the end of the financial year in which the return is made.

Explanation.-For the purposes of this sub-section,-

(a) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,-

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) the acknowledgment of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the after the 31st day of March, 202012.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(1D) Notwithstanding anything contained in sub-section (1), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2):

Provided that the provisions of this sub-section shall not apply to any return furnished for the assessment year commencing on or after the 1st day of April, 2017.

(2) Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not

understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished.

(3)On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment:

Provided that in the case of a-

(a) research association referred to in clause (21) of section 10;

(b) news agency referred to in clause (22B) of section 10;

(c) association or institution referred to in clause (23A) of section 10;

(d) institution referred to in clause (23B) of section 10,

which is required to furnish the return of income under sub-section (4C) of section 139, no order making an assessment of the total income or loss of such research association, news agency, association or institution, shall be made by the Assessing Officer, without giving effect to the provisions of section 10, unless-

(i) the Assessing Officer has intimated the Central Government or the prescribed authority the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B), as the case may be, by such research association, news agency, association or institution, where in his view such contravention has taken place; and

(ii) the approval granted to such research association or other association or institution has been withdrawn or notification issued in respect of such news agency or association or institution has been rescinded:

Provided further that where the Assessing Officer is satisfied that any fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), of clause (23C) of section 10, or any trust or institution referred to in section 11, has committed any specified violation as defined in Explanation 2 to the fifteenth proviso to clause (23C) of section 10 or the Explanation to sub-section (4) of section 12AB, as the case may be, he shall-

(a) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration, as the case may be; and

(b) no order making an assessment of the total income or loss of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under clause (ii) or clause (iii) of the fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB:

Provided also that where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in clause (ii) and clause (iii) of sub-section (1) of section 35 are not being carried out in accordance with all or any of the conditions subject to which such university, college or other institution was approved, he may, after giving a reasonable

opportunity of showing cause against the proposed withdrawal to the concerned university, college or other institution, recommend to the Central Government to withdraw the approval and that Government may by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and the Assessing Officer.

(3A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under sub-section (3) or section 144 so as to impart greater efficiency, transparency and accountability by–

(a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based assessment with dynamic jurisdiction.

(3B) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2021.

(3C) Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

(3D) Nothing contained in sub-section (3A) and sub-section (3B) shall apply to the assessment made under sub-section (3) or under section 144, as the case may be, on or after the 1st day of April, 2021.

(4) Where a regular assessment under sub-section (3) of this section or section 144 is made,-

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment ;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

Section 199: Credit for tax deducted

(1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.

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