

Assessee cannot be saddled with tax liability if tax deducted on his income wasn't deposited by the deductor

In *Ashok Kumar B. Chowatia v. Joint Commissioner of Income Tax (TDS), Chennai [W.P. Nos. 31167, 31170, 31172, 31174 of 2018, W.M.P. Nos. 36373, 36376 and 36379, 36380 of 2018 dated April 16, 2021]*. Ashok Kumar B. Chowatia (“the Petitioner”) challenged the demand notices for clearance of the arrears of tax purportedly due from the Petitioner.

The Petitioner contended that the tax which was demanded from the Petitioner was already deducted by way of Tax Deducted at Source (“TDS”). However, the deductor didn't deposit TDS to the credit of Central Government. Therefore, the Petitioner can't be saddled with the tax liability as the deductor was an assessee in default as per the provisions of the Section 201 of the Income Tax Act, 1961 (“the IT Act”).

The Hon'ble Madras High Court quashed the demand notices and held that recovery can only be made against deductor who is the assessee in default, to the extent tax was deducted by the deductor and not remitted to the Income-tax Department (“the IT Department”).

Further, stated that the Petitioner can't be made to pay tax two times on same income. Balance of tax, if any, which had escaped payment alone could be recovered from the Petitioner by issuing suitable notice under the provisions of the IT Act.

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