

HEMANT ENTERPRISES VS. ACIT (ITAT PUNE)



Citation: ITA No. 394/PUN/2025

| Order Date: December 30, 2025

BACKGROUND

The assessee, an Association of Persons (AOP), filed its return of income for AY 2019–20 on 15.10.2019, subsequently revising it on 16.01.2020, declaring total income of ₹2,78,41,125. The return was processed under section 143(1) through Central Processing Centre (CPC). Two adjustments arose at CPC level: 1) Denial of TDS credit of ₹27,14,806 on the grounds that the corresponding TDS was not reflected in Form 26AS at the time of processing 2) levy of interest u/s 234A.

The assessee filed a rectification application under section 154, contending that tax had been deducted at source by Mumbai WTR Pvt. Ltd., and that non-reflection in Form 26AS was due to failure of the deductor to deposit TDS with the Government. The rectification was rejected without modification. On appeal, NFAC upheld CPC's denial of TDS credit on the reasoning that; (i) mismatch with Form 26AS, and (ii) the issue being "argumentative" and not rectifiable under section 154. NFAC allowed relief only on interest u/s 234A.

The dispute before ITAT concerned recognition of TDS credit where tax was deducted but not deposited by the deductor, and whether assessee could be denied such credit.

ISSUE

The issue here is, whether the TDS credit of ₹27,14,806 must be granted to the assessee when tax was deducted at source by the deductor but not deposited to the Government account and therefore not reflected in Form 26AS.

FINDINGS OF THE TRIBUNAL (ITAT PUNE)

The ITAT held as follows:

- The fact was undisputed that Mumbai WTR Pvt. Ltd. deducted tax at source from payments made to the assessee, but failed to deposit the TDS to the Government, resulting in non-reflection in Form 26AS.
- Once tax is deducted at source, the assessee receives net-of-tax payment, and failure of the deductor to deposit the same cannot result in the assessee being deprived of credit.
- The Tribunal noted the assessee's reliance on judicial precedents (Madras High Court and Bombay High Court), and found "force in the contention" that recovery must be initiated against the deductor and not the deductee.

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- The ITAT observed that NFAC dismissed the ground as “infructuous” on the premise that section 154 cannot adjudicate debatable matters; however, the Tribunal emphasized the factual element of deduction already established in the assessee’s case.
- ITAT held that the assessee is entitled to TDS credit of ₹27,14,806, and set aside the NFAC order to that extent, directing the AO to grant credit after due verification.
- Regarding the levy of interest u/s 234A, the Tribunal noted that NFAC had already deleted it; therefore, no further adjudication was required.
- The appeal was accordingly partly allowed.

KEY TAKEAWAYS

From the reasoning of the Tribunal, the following takeaways arise:

- Tax Deduction Creates Liability Linearity: Once tax is deducted at source and the assessee has received payment net of TDS, the assessee cannot be expected to bear tax burden again merely due to failure of deductor to remit TDS.
- TDS Credit Follows Deduction not the Deposit Status: The Tribunal’s reasoning reinforces that the assessee’s entitlement to TDS credit stems from deduction, not from Form 26AS reflection.
- Recovery Mechanism Directed Toward Deductor: Tribunal logic suggests that where deductor defaults, the appropriate course is to recover TDS from deductor rather than deny credit to the deductee.
- Rectification Proceedings Not a Barrier: Although NFAC considered the matter “contentious,” ITAT treated deduction as a factual matter verified through payment machinery.
- Appeal Outcome: Relief of ₹27,14,806 TDS credit materially alters tax liability for the year and restores symmetry between TDS deduction and credit recognition.

[Click here to read the whole Order](#)

KNOWLEDGE DESK

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