

HC backs employees in TDS deposit case

Says Those Facing I-T Notices Not Liable If Co Deducted Tax At Source But Did Not Deposit

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Mumbai: A recent decision of the Delhi high court will support employees of errant companies who are facing income tax (I-T) demand notices, sometimes running into several lakhs, because the employer company has deducted tax at source (TDS) against their salary but not deposited it with govt.

The Delhi high court in the case of a pilot formerly employed with the defunct Kingfisher Airlines held that neither can the tax demand be recovered from the employer nor can the same be adjusted against future I-T refunds due to such employee.

From time to time, news of tax notices being served on employees makes headlines — be it the case of Kingfisher or the more recent case of Byju's, which is undergoing insolvency proceedings.

The high court ruled in favour of former Kingfisher co-pilot Satwant Singh Sanghera, who filed the petition after receiving a notice of an outstanding tax demand totalling over Rs 11 lakh and covering two assessment years. The notice, issued under section 245 of the I-T Act, demanded the

unpaid tax amount, plus interest. Sanghera contended that the tax had been deducted from his salary by the airline and was reflected in his Form 16A (given by the employer) but was not remitted to govt.

ITAT's case, is the employee from whose salary the tax has been deducted). However, the difficulty arises as the entry for the tax deducted does not appear in Form 26AS unless the deductor (eg: the employer) pays the

'CAN'T RECOVER TAX FROM STAFF'

➤ Former Kingfisher co-pilot Satwant Singh Sanghera received a notice of an outstanding tax demand totalling over ₹11 lakh. The notice demanded the unpaid tax amount plus interest

➤ Sanghera said that while the tax had been deducted from his salary, it was not remitted to govt by the airline

➤ His counsel argued that under Section 205 of the I-T Act, the tax authority is barred from recovering TDS from employees if the employer has already deducted it

➤ The Delhi HC ordered I-T authorities to rescind the disputed demands and process any refunds due



In his defense, Sanghera's counsel argued that under Section 205 of the I-T Act, the tax authority is barred from recovering TDS from employees if the employer has already deducted it. He further cited a 2015 directive from the Central Board of Direct Taxes, which reiterates that TDS should not be recovered from individuals in such instances.

Chartered accountant Ketan Vajani said, "The judiciary has been consistently holding that no amount can be recovered from the deductees (which, in the

TDS to govt and files the TDS returns... This in turn results in tax demands or reduced refunds in the hands of the deductees. All taxpayers cannot afford to knock on the doors of the court. The CBDT should look into this practical difficulty and take remedial steps."

In this case, the Delhi high court ordered the I-T authorities to rescind the disputed demands and process any refunds due. The ruling reaffirms protections for employees in cases where employers fail to remit deducted taxes.