

INSTRUCTION NO. 05/2013

F. No. 275/03/2013-IT(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 8th of July, 2013

To

All Chief Commissioners of Income-Tax/ All Directors General of Income-Tax

Sir/Madam,

Subject:-Credit of TDS u/s 199 of the Income Tax Act 1961 to an assessee when the tax deducted has been deposited with the revenue by the deductor- direction of the Hon'ble Delhi HC in the case 'Court on Its Own Motion vs. UOI & Ors in WP(C) 2659/2012 & WP(C) 5443/2012'- regarding

1. The CBDT issues instructions with respect to processing of Income tax returns and giving credit for TDS thereon in the case of TDS mismatch. A few of the instructions on this subject issued in previous years are Instruction no. 1/2010 (25.02.2010) for returns pertaining to A.Y. 2008-09; Instruction no. 05/2010 (21.07.2010), Instruction no. 07/2010 (16.08.2010) and Instruction no. 09/2010 (09.12.2010) for returns pertaining to A.Y. 2009-10; Instruction no. 02/2011 (09.02.2011) for returns pertaining to A.Y. 2010-11; and Instruction no. 1/2012 (02.02.2012) and Instruction no. 04/2012 (25.05.2012) for returns pertaining to A.Y. 2011-12. The instructions gave decisions and the manner in which the TDS claims were to be given credit while clearing the backlog of returns pending processing. In the cases that did not fall under the specific TDS amount limit or refund amount computed, the residuary clause in these instructions gave the manner of processing those returns and it stated that "***TDS credit shall be given after due verification***".

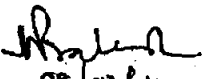
2. The Hon'ble Delhi High Court vide its judgement in the case '*Court On its Own Motion vs. UOI and Ors*' (W.P. (C) 2659/2012 & W.P. (C) 5443/2012 dated 14.03.2013) has issued seven mandamuses for necessary action by Income-tax Department, one of which is regarding the issue of non-credit of TDS to the taxpayer due to TDS mismatch despite the assessee furnishing before the assessing officer, TDS certificate issued by the deductor.

3. In view of the order of the Hon'ble Delhi High Court (*reference: para 50 of the order*), it has been decided by the Board that when an assessee approaches the Assessing Officer with requisite details and particulars in the form of TDS certificate as an evidence against any mismatched amount, the said Assessing Officer will verify whether or not the

deductor has made payment of the TDS in the Government Account and if the payment has been made, credit of the same should be given to the assessee. However, the Assessing Officer is at liberty to ascertain and verify the true and correct position about the TDS certificate. Such verification may be made with the relevant AO(TDS). The AO(TDS) may also, if deemed necessary, issue a notice to the deductor to compel him to file correction statement as per the procedure laid down. In this regard, the AO(TDS) may invoke all the powers and authority as available to him/her as per the Income tax Act. If required and necessary, he/she can obtain prior approval of the Director or Commissioner of Income tax. The authorities can also examine whether general approval can be given.

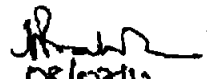
4. Thus, the manner laid down by the Hon'ble HC in the above mandamus is a method of due verification. This may be brought to notice of all Officers working under your jurisdiction for compliance.

5. Hindi version shall follow.


08/07/13
(Anshu Prakash)
Director IT (Budget), CBDT

Copy to:

1. Chairperson, CBDT
2. All Members, CBDT with the request to kindly instruct the respective CCsIT/DsGIT; DsIT/CsIT/ CsIT (TDS) under their zonal jurisdiction for compliance.
3. All other officers of CBDT of the rank of Under Secretary and above
4. DIT (PR,PP&OL), Mayor Bhawan, N. Delhi
5. The Comptroller and Auditor-General of India
6. The DGIT (Vigilance), New Delhi.
7. The Joint Secretary and Legal Advisor, Ministry of Law and Justice, New Delhi.
8. All Directors of Income Tax, N. Delhi.
9. The DGIT (NADT), Nagpur
10. ITCC Division of CBDT (3 copies)
11. The DGIT (Systems), N. Delhi.


08/07/13
(Anshu Prakash)
Director IT (Budget), CBDT