

BY SPEED POST

**No. 275/29/2014-IT-(B)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes**

Dated New Delhi, the 1st June, 2015

To,

The CCsIT (CCA)

Subject: Non-deposit of Tax Deducted at Source – regarding.

Sir/Madam,

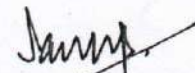
Grievances have been received by the Board from many taxpayers that in their cases the deductor has deducted tax at source from payments made to them in accordance with the provisions of Chapter-XVII of the Income-tax Act, 1961 (hereafter 'the Act') but has failed to deposit the same into the Government account leading to denial of credit of such deduction of tax to these taxpayers and consequent raising of demand.

2. As per Section 199 of the Act credit of Tax Deducted at Source is given to the person only if it is paid to the Central Government Account. However, as per Section 205 of the Act the assessee shall not be called upon to pay the tax to the extent tax has been deducted from his income where the tax is deductible at source under the provisions of Chapter- XVII. Thus the Act puts a bar on direct demand against the assessee in such cases and the demand on account of tax credit mismatch cannot be enforced coercively.

3. This may be brought to the notice of all the assessing officers in your region so that if the facts of the case so justify, the assessee are not put at any inconvenience on account of default of deposit of tax into the Government account by the deductor.

4. This issues with the approval of Chairperson, CBDT.

Yours faithfully



(Sandeep Singh)

Under Secretary to the Govt. of India

Copy to:

1. Zonal Members, CBDT
2. PPS to Chairperson, CBDT

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F.No. 275/29/2014-IT (B)
Government of India
Ministry of Finance
Central Board of Direct Taxes
(CBDT)

New Delhi, Dated: 11th March, 2016

Office Memorandum

Sub: Non-deposit of tax deducted at source by the deductor- Recovery of demand against the deductee assessee.

Vide letter of even number dated 01.06.2015, the Board had issued directions to the field officers that in case of an assessee whose tax has been deducted at source but not deposited to the Government's account by the deductor, the deductee assessee shall not be called upon to pay the demand to the extent tax has been deducted from his income. It was further specified that section 205 of the Income-tax Act, 1961 puts a bar on direct demand against the assessee in such cases and the demand on account of tax credit mismatch in such situations cannot be enforced coercively.

2. However, instances have come to the notice of the Board that these directions are not being strictly followed by the field officers.

3. In view of the above, the Board hereby reiterates the instructions contained in its letter dated 01.06.2015 and directs the assessing officers not to enforce demands created on account of mismatch of credit due to non-payment of TDS amount to the credit of the Government by the deductor. These instructions may be brought to the notice of all assessing officers in your Region for compliance.

This issues with the approval of Member (Revenue &TPS).



(Sandeep Singh)
Under Secretary (Budget)
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All Principal Chief Commissioners/ Principal Directors General of Income Tax.
All Chief Commissioners/ Directors General of Income Tax.

Copy to:

1. Chairperson and all Members of CBDT.
2. All Joint Secretaries and Commissioners in CBDT.
3. Pr. DGIT (Systems) and Pr.DGIT (Admin.).
4. Additional Directors General (Recovery) and (PR, PP&OL).
5. Web Managers of irsofficersonline.gov.in and incometaxindia.gov.in for placing the Office Memorandum on the respective portal.
6. Office of Comptroller & Auditor General of India (30 copies).