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Unlocking the Mystery of TDS Credits and VAT: Everything You Need to Know

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Abstract: - Unlocking the Mystery of TDS Credits provides an insightful exploration of the Tax Deducted at Source (TDS) credit system under India's Income Tax Act and highlights the introduction of computerized processing of tax returns since April 1, 2008, improving the management of errors and refunds. It explains the TDS credit mechanism, wherein deductions are treated as taxes paid on behalf of taxpayers, and the role of Form 26AS in reflecting TDS details. Common mismatches, often due to errors like incorrect PAN details or unfilled TDS returns, are addressed with solutions including collaboration with deductors and guidance from the Central Board of Direct Taxes for streamlined processing. The document underscores the importance of checking Form 26AS prior to filing returns to avoid financial discrepancies and advises on steps for rectification. Overall, it provides a comprehensive guide to navigating TDS credits effectively, ensuring taxpayers receive their rightful credits.

Keywords: TDS Credits, Tax Deducted at Source, Income Tax Act, Computerized Processing, Form 26AS, Mismatches, VAT

Introduction:

In the intricate world of taxation, understanding the nuances of Tax Deducted at Source (TDS) credits can often feel like unraveling a complex mystery delves into the heart of India's TDS credit system, shedding light on its mechanisms, challenges, and the paths to resolution and explores the evolution of TDS credit processing, particularly highlighting the impact of computerized systems introduced since April 1, 2008, under the Finance Act and examines the critical role of Form 26AS in claiming TDS credits, the common mismatches that can occur, and the recent instructions from the Central Board of Direct Taxes aimed at streamlining processes.

Whether you're a taxpayer seeking clarity or a practitioner navigating the intricacies of TDS, this document equips you with the essential knowledge to ensure accurate reporting and rightful credit claims, protecting you from unnecessary monetary losses and ensuring compliance with the Income Tax Act and With effect from 1st of April, 2008, a notification was made in the Finance Act, 2008, wherein, the computerized processing of returns came into effect with an objective to correct any incorrect claim apparent from the return or to correct any arithmetical error in the return. Within last five years, a large extent of assesses and their consultants are receiving intimations u/s 143(1) showing demand/refund for the relevant assessment year and in case of refunds, the adjustment of earlier year demands against such refund u/s 245 and Section 199 postulates that any deduction of tax made under

the provisions of Chapter XVII shall be considered as payment of tax on behalf of the Deducted and credit shall be allowable to the assessee and the credit shall be allowed as specified in the Rules made in this behalf.

Sec. 199 Credit of tax deducted

(1) Any deduction made in accordance with the foregoing provisions of this chapter and paid to the Central Government **shall be treated as a payment of tax on behalf of the person from whose income the deduction was made**, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this chapter, make such rules as may be necessary, including the rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year which such credit may be given".

Rule 37BA has been issued in this regard and the same allows for credit of TDS on the basis of the information relating to deduction of tax furnished by the deductor to the Income Tax authority. This refers to the periodic returns in form 24Q/26Q/27Q/27EQ to be filed by the Deductor and the computerized processing has had its own share of problems and most highlighted problem is that during the processing of return, credit of TDS is given only to the extent the same is reflected in form 26AS. There is a huge mismatch of TDS between declared by the assessee in ITR and reflected in form 26AS. The prime fact behind that is form 26AS is based on the quarterly statements filled by the deductor and tax challan details filled by the banks. Even a small error committed by the deductor or banks may lead to omission of TDS in the form 26AS. This ultimately leads to huge demands being raised by the income tax department on the assessee, or, short payment of refunds to the assessee on the basis of erroneous particulars in form 26AS. The reasons for mismatch of tax credit may be due to followings:

- (a) The TDS made by the Deductor is not at all remitted to the revenue;
- (b) The TDS made by the Deductor is remitted, but TDS returns are not filed by the deductor;
- (c) The TDS return is filed but the particulars of the deductees are stated wrongly e.g. PAN wrongly stated, PAN omitted to be quoted etc.
- (d) The bank, collecting tax from the deductors on the behalf of the revenue, mentioned wrong key for such challan at Income Tax portal.

To rectify the above error in Form 26AS, the assessee is forced to approach to the concerned deductor to file a correction statement and only after the same is filed by the deductor and the tax credit reflected in the Form 26AS, the credit of tax deducted at source is being provided to the assessee and TDS Credit to the account of the deductee has to be given once the same has been deducted and payment has been received by the Revenue.

The instant problem related to unmatched challan (marked as "U" in form 26AS) which represent entries, the challan details of which are not found in the Online Tax Accounting System (OLTAS) for which credit was being denied to the Deductee and the Department has been directed to determine the procedure and the time limit wherein all the unmatched entries are to be rectified by the deductor and notifications in this regard can be referred to by us as mentioned above, also Value Added Tax (VAT), in its broader sense, is a multiple point tax with a provision of set off of tax paid at the previous point of sale or purchase of goods and services. VAT is an indirect tax which is levied in principle, on all commercial activities involving production and distribution of goods as well as origination and alienation of services present it is levied at every point of sale or supply of goods in the series of sales or supplies by a registered dealer with the provision of claim of credit of input tax paid at the previous point of purchase or supply. According to section 2 (17) of the Rajasthan Value Added Tax Act, 2003 (which came into force with effect from 1st day of April, 2006) (hereinafter referred to as the VAT Act), "input tax" means tax paid or payable by a registered dealer in the course of business on the purchase of any goods made from a registered dealer. In all of the above cases, it is possible that the Credit will not be allowed to the Assessee (since the same will not reflect in the Tax Credit Statement (Form 26AS), based on the provisions of section 199, however, a reading of section 205 of the Act will throw better light on the situation.

Sec. 205 of I.T. Act, 1961

Where tax is deductible at source under the provisions of Act, the assessee (deductee) shall not be called upon to pay the tax himself to the extent to which tax has been deducted from his income. Credit of TDS is to be given, where the Assessee furnishes the requisite details and particulars even if the same is not properly reflected in Form 26AS. The Assessing officers should verify whether or not the deductor has made payment of TDS and if

the payment has been made, credit of TDS is to be given. If the deductor has made mistakes in uploading the details, then department is at liberty to communicate with the deductor through issue of notice under the provisions of Chapter 17 and compel him to upload the correct particulars/details. The assessee cannot be penalized for the fault of the deductor. Even, the Income tax department is debarred u/s 205 from enforcing any such demand on deductee. As decision given by HC- Karnataka in **Anusuya Vs. Dy. CIT (2006)**. Recently, the Central Board of Direct Taxes has issued instruction (**No. 5/2013 dated 08/07/2013**) with respect to processing of Income-tax returns and giving credit for TDS, thereon in the case of TDS mismatch pursuant to the judgement of the Delhi High Court in Court on Its Own Motion vs. UOI **352 ITR 273**. 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". 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. The Board has also issued an instruction No. 04/2012 [F. No. 225/34/2011-ITA.II], dated 25-5-2012 on grant of TDS credit with immediate effect. The following decisions have been taken in this regard:

- In all returns (ITR-1 to ITR-6), where the difference between the TDS claim and matching TDS amount reported in AS-26 data does not exceed Rs. Five thousand, the TDS claim may be accepted without verification.
- Where there is zero TDS matching, TDS credit shall be allowed only after due verification.
- Where there are TDS claims with invalid TAN, the TDS credit for such claims is not to be allowed.
- In all other cases TDS credit shall be allowed after due verification.

The Revenue Department provides tax credit to the assessee for a sum of lower of TDS claimed by the assessee and amount shown in form 26AS. Sometimes, by mistake the assessee claim for a lower amount of TDS comparative to tax credit reflecting in form 26AS and it will be monetary loss for him. So the assessee and their chartered accountants are advised to check form 26AS before filling their return of income. If the assessee have claimed lower amount of tax credit, just because of non- availability of TDS certificates at the time of filling of ITR, then later on receipt of TDS statements, the assessee can fill rectification u/s 154 and the assessing shall allow such credit as per provisions. Even, the Commissioner of Income Tax has no jurisdiction to revise such order of A.O, on the fact of erroneous or prejudicial to the interest of revenue. As decision given by HC-Karnataka in CIT, Bangalore Vs. Digital Global Soft Ltd. (2012).The all above problems will generally arise in case prior to financial year 2011-12 as from financial year 2012-13. the TDS certificates forms had undergone a change and required to be downloaded from Income Tax Portal as per circular u/s 119 of I.T. Act, 1961. Due this change, the TDS certificates will show only such details which have been filled by the deductor and accepted by the department as TDS statements filled by the deductor. This will nullify the chances of differences in TDS certificates and Form 26AS and With effect from 1" April, 2012, all deductors (including Government deductors) shall issue TDS certificate generated through TIN Central System and which is downloaded from the TIN website with a unique TDS certificate number in respect of all sums deducted under any provisions of chapter CVII-B. The deductor shall authenticate such TDS certificate by either using digital signature or manual signature and Hence, to conclude, the Income Tax Department has given instructions to the officials and laid down certain procedures for simplifying the mismatch TDS matters. Certain case laws and

VAT INPUT: -

- (1) the diversified and simple indirect tax system with an in-built self-regulated mechanism to raise more revenue through taxing value of the goods as well as each addition thereto in the series of sales;
- (2) to do away with multiplicity of taxes, such as excise on production, levy on entry, tax on sales and business transactions; (iii) to prevent avoidance of tax by ensuring the issuance of invoices/bills and checking on under-billing; marketing fee on
- (3) to stop unhealthy competition by enforcing uniform rates of tax throughout the country and denying unscrupulous tax bonanza by the States;

(4) to allow free movement of goods and develop a unified national market by removing all barriers in the course of inter-

State trade or commerce; and

(5) to bring buoyancy in the national economy and to ensure fiscal consolidation in the country,

WHEN INPUT TAX CREDIT IS NOT ALLOWED RULE 18(3):-

Input tax credit shall be allowed to registered dealers, other than the dealers who have opted for composition scheme under

section 3(2) or under section 5 of the VAT Act, 2003. Input tax credit shall be available on purchases made within the state

against VAT invoice. However, no input tax credit will be available in the following cases-

- i) If the goods are purchased from a registered dealer who is liable to pay tax under sub-section (2) of section 3 or who has opted to pay tax under sections of this Act.
- ii) If the goods are purchased in the course of import from outside the state.
- iii) If the goods are taxable at first point in the series of sales, from a registered dealer who pays tax at the first point. For the purpose of this clause, "first point in the series of sales" means the first sale made by a registered dealer in the State.
- iv) Where the original VAT invoice or duplicate copy thereof is not available with the claimant, or there is evidence that the same has not been issued by the selling registered dealer from whom the goods are purported to have been purchased.
- v) Purchases of goods where invoice does not show the amount of tax separately.
- vi) Where the purchasing dealer fails to prove the genuineness of the purchases transaction on being asked to do so by an officer not below the rank of Assistant Commercial Taxes Officer authorised by the Commissioner.
- vii) A works contractor who opts for exemption fee scheme u/s 8(3) of the Act (Notification S.No.2130 dated (11.08.2006)) will not be allowed to claim input tax credit in respect of the goods used in execution of the works contract for which exemption certificate has been granted vide condition no. 6 of the scheme.

WHEN INPUT TAX CREDIT IS ALLOWED: -

Input tax credit shall be allowed to registered dealers in respect of purchases of any taxable goods made within the state from a registered dealer for the purpose of

- i) Sale within the state of Rajasthan.
- ii) Sale in the course of inter- state trade and commerce.
- iii) Sale in the course of export outside the territory of India.
- iv) Being used as packing material of goods, other than exempted goods for sale.
- v) Being used as raw material in the manufacture of goods other than exempted goods, for sale within the state or in the course of inter- state trade or commerce.
- vi) Being used as packing material of goods or as raw material in the manufacture of goods for sale in the course of export outside the territory of India.
- vii) Being used in the state as capital goods in manufacture of goods other than exempted goods.

If goods purchased are used partly for the purposes specified in this sub-section and partly as otherwise, input tax credit shall be allowed proportionate to the extent they are used for the purpose specified in this sub-section.

WHEN INPUT TAX CREDIT IS ALLOWED EQUAL TO OUTPUT TAX [SEC.18(3A)]: -

Notwithstanding anything contained in this Act, where any goods purchased in the State are subsequently sold at subsidized price, the input tax allowable under this section in respect of such goods shall not exceed the output tax payable on such goods. [Sec. 18(3A)] w.e.f. 09.03.2011

PERIOD IN WHICH INPUT TAX CREDIT CAN BE CLAIMED [SEC.18(2)]: -

The claim of input tax credit shall be 'allowed on the tax deposited on the basis of original VAT invoice within three months from the date of issuance of such invoice. However, claim of input tax credit of the additional tax deposited may be allowed on the basis of VAT invoice which has been issued subsequently in compliance with the decision of any competent court or authority, showing the tax at higher rate. If the first original VAT invoice is lost, input tax credit may be allowed on the basis of a duplicate copy thereof, subject to such conditions as may be prescribed.

CONDITION FOR CLAIMING INPUT TAX CREDIT [RULE.18(1)]:-

(1) The extent of input tax credit available to a registered dealer, for a tax period, shall be equal to the amount of tax paid on purchases in the State as evident from the Original VAT invoice, and where such invoice has been lost or destroyed, on the basis of duplicate copy thereof issued to him in accordance with sub-rule (4) of rule 38, subject to the other provisions of this rule and the following conditions: -

(2) that such dealer has maintained a true and correct separate account of his purchases against VAT Invoices in Form VAT-07 and submits the summary thereof in Form VAT-07A, along with return prescribed in rule 19.

(3) that such dealer has maintained a true and correct separate account of his sales in Form VAT-08 and submits the summary thereof in Form VAT-08 A, along with return prescribed in rule 19.

Note: In Form VAT-07, VAT-07A, VAT-08 and VAT-08A, the VAT invoices shall be entered in the quarter in which the date of invoice falls, even if the receipt of goods is spread over to different quarters in a year or years.

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