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Why Every Employee Must Claim and Retain Salary Slips

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The recent ruling by Sh. Prashant Maharishi of the Bangalore Income Tax Appellate Tribunal (ITAT) in the case of *Mrs. Antaash Sheikh* v. *ITO* [2025] 179 taxmann.com 134 (Bangalore - Trib.) has cemented a crucial legal safeguard for employees in whose cases taxes are withheld by the employer but not deposited with the Government . It unequivocally confirms that salary slips are the primary and indispensable proof of Tax Deducted at Source (TDS), the credit for which cannot be denied to an employee even if their employer fails to deposit the deducted tax with the government. This decision serves as a powerful reminder and a compelling instruction for both the Central Board of Direct Taxes and every employee to always claim and retain their monthly salary slips to secure credit.

It also serves as a reminder to the Central Processing Centre to seek and allow credit on the basis of salary slips presented by the employee in the intimation order proceedings.

This case involved an employee of Dunzo Digital Pvt. Ltd. The facts presented a common, yet severe, risk faced by salaried individuals these days where employer gets choked in Insolvency proceedings. In the case the employee's salary slips clearly showed that the requisite tax had been deducted from their salary by the employer. The employer, however, failed to deposit the deducted TDS amount with the Central Government. Consequently, the TDS credit was not reflected in the employee's Form 26AS, leading the Central Processing Centre (CPC) to deny the credit during the income tax assessment process and even the Commissioner(Appeals) declined relief on same basis.

The Bangalore Tribunal delivered a landmark judgment to protect the employee. It ruled that when an employee successfully demonstrates through salary slips that tax was deducted from their salary, the credit for the same cannot be denied in their hands. This ruling enforces the fundamental principle of income tax law that the employee cannot be held responsible or penalized for the failure, negligence, or malfeasance of their employer in performing their statutory duty (i.e., depositing the deducted tax). Once the employer deducts the tax, the employee's obligation regarding that amount is deemed fulfilled, and their right to claim the credit vests immediately.

For years, Form 26AS (the Annual Tax Statement) has been the de facto gospel for confirming TDS credit. It is a consolidated statement reflecting all tax deducted by various payers and deposited with the government against the Permanent Account Number (PAN) of the assessee. However, this ruling explicitly establishes that Form 26AS is not the sole or conclusive document for granting TDS credit. In a situation of employer default, the hierarchy of evidence shifts. TDS absence in 26AS does not extinguish the credit. Salary Slips are primary Proof of Deduction. The salary slip transforms from a simple record of monthly earnings into a critical legal instrument—a direct acknowledgment by the employer that they withheld tax on the employee's behalf.

A complication in this case was that insolvency action had been initiated against the employer company, Dunzo Digital Pvt. Ltd. This initiation typically triggers a moratorium period, which legally bars any recovery action against the company, including the recovery of outstanding TDS amounts. The Tribunal's view on this challenge was pragmatic and focused on justice for the employee. The employee's right to the TDS credit, which was deducted from their income, is independent of the employer's financial health or legal status. The Tribunal explicitly stated that even though the tax may not be instantly recoverable from the employer due to the moratorium, there is nothing that prevents CPC to extend credit for taxes deducted on the basis of salary slips. This aspect of the ruling provides relief to employees whose employers undergo insolvency, ensuring that the burden of the company's financial failure does not fall on the individual taxpayer's shoulders. Insolvency is thus held to be no bar to the employee's right to claim their TDS credit.

While providing relief to the employee, the Tribunal was equally insistent on ensuring accountability on the part of the employer. It directed the revenue authorities to be proactive, holding that in such cases, the Income Tax Department should unhesitatingly take action against the employer for penalty and prosecution. This directive is crucial for two reasons:

a. Deterrence: It acts as a powerful deterrent against employers who might otherwise feel they can deduct tax from employees but delay or default on depositing it.

b. Statutory Compliance: It reinforces the severe legal consequences under the Income Tax Act for non-deposit of TDS, which is viewed as a breach of trust and a direct loss to the government exchequer.

The Bangalore Tribunal's ruling is a definitive victory for employee rights and a clear signal to the revenue authorities to prioritize the employee's claim over the procedural irregularity of the employer. The entire episode underscores a simple, yet profoundly important, rule of financial prudence: Every employee should always claim, download, and securely maintain their monthly salary slips. These slips are not mere informational documents; they are legal proof of income, deductions, and tax compliance. In the unfortunate event that an employer defaults which is quite common, these slips become the ultimate shield the employee possesses to secure their rightfully earned TDS credit and avoid unnecessary tax demand and litigation. At the same time the Central Board of Direct Taxes may take following twin actions:

(*i*) issue necessary instruction in this regard to the CPC to grant credit of TDS on the basis of salary slips in a situation where the same is not reflected in 26AS;

(*ii*) to henceforth include in ITR Form a requirement to fill month wise details of gross salary, amount of deductions and taxes withheld as per salary slips.

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