

TDS default - A few nights in Tihar?

By TIOL News Service

NEW DELHI, JAN 20, 2018: A Special Magistrate Hazari Court has ordered judicial custody of the Director of a Delhi based Real Estate and IT Solution Company for non-compliance with Income Tax TDS Default case. It was found during investigations that the company had deducted TDS but had not deposited in the Government account despite there being a statutory obligation by the Income Tax Act. This also led to harassment of many innocent persons whose TDS had been deducted but the TDS returns had not been filed by the Real Estate Company. It was found that during FY 2013-14, FY 2014-15 and FY 2015-16, amounts of Rs. 45,68,990/-, Rs. 35,45,290/- and Rs. 33,36,970/- were deducted by the assessee company. The assessee company was found to be defaulting on filing of TDS return statements.

Taking into account all defaults, show cause notices were served upon the Director to explain why sanction for prosecution should not be granted under section 278B read with 276B of Income Tax Act for not complying with the provisions of the law in respect of non-deposition of the Income Tax deducted at source. However, during the proceedings, the assessee asked for repeated adjournments, instead of giving reasonable explanations for the defaults during the proceedings. Hence, it was concluded that there is no justifiable reason for the delay in depositing the TDS. This clearly showed the non-serious behaviour of the assessee towards the provisions of deduction and depositions of tax at source. Therefore, TDS Wing in exercise of powers under Section 279(1) of Income Tax Act sanctioned the filing of criminal complaint against the company as well as the Director under Section 276B read with 278B, 278E and 279 of the Act for FY 2013-14, FY 2014-15 and FY 2015-16 in 2017.

Non-bailable warrant was issued against the Director in December 2017 for non-compliance with the case proceedings. The Non-bailable warrants returned to the court unexecuted with the report that accused is avoiding execution of the warrants. Hence, on 19 Jan 2018 accused was taken into custody and was remanded to judicial custody. The accused has been sent to Tihar Jail for the same.

The Principal Chief Commissioner of Income Tax, Delhi, Mr. S. S. Rathore, stated that the Department is very serious about timely depositing of the TDS deducted by the employers. It is reiterated that the TDS is Government money which has to be deposited in Treasury on timely basis. Failure to deposit the tax deducted will lead to criminal prosecution with imprisonment from 3 months to 7 years. This year the Principal Chief Commissionerate - New Delhi has sanctioned prosecution in about 240 cases which clearly shows the strict attitude of Income Tax Department towards the defaulters. The Principal Chief Commissioner - Income Tax - New Delhi has given a strong message to non-compliant tax payers that tax defaulters will find it difficult to escape from penalties and prosecutions from vigilant and proactive Income Tax Department and at the same time ensuring Best Taxpayer Friendly Services for the honest and compliant taxpayers.

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