Complainant: Shri Philips C. Abraham

Public Authority: Income Tax Department, Chennai
(through Shri Andasu Ravindar, Additional Commissioner (AA); & Shri P. Paramasivam, ITO, (CPIO))

Date of Hearing: 17/07/2009

Date of Decision: 17/07/2009

FACTS:-

The matter, in short, is that the complainant was an employee of a company called NEPC Micon Limited, Chennai, during the period January, 1996 to March, 1997. It is his claim that TDS was deducted from his monthly salary during this period and in proof thereof, he has produced two salary bills for the months of May and June, 1996 which show that TDS of Rs.12,267/- each was deducted for these two months. It is the complainant’s claim that total TDS deduction amounts to Rs.1,33,937/- for the whole period but the same was not remitted to the Income Tax Department. It is in this connection that vide his letter dated 30/08/2008, he had sought information as to whether the TDC deductions were remitted to the income Tax Department or not.

2. Dr. J. Albert, CIT(TDS), Chennai-34, vide his letter dated 03/10/2007, had informed the Appellant that M/s. NEPS Micon Limited had not remitted his TDS deductions to the Income Tax Department.

3. The complainant had, then, requested the CPIO to let him know whether TDS deductions in respect of other employees of The aforesaid company were remitted to the Income Tax Department or not and to give him names and designations of employees in respect of whom TDS was deducted and the quantum thereof. Shri S. Arun Kumar, CPIO, vide letter dated 07/10/2008 had refused to disclose this information u/s 8(1)(j) of the RTI Act.

4. It appears that he had filed another RTI application before the CPIO wherein he wanted to know as to what action had been taken by the Income Tax department against the company for the non-remittance. The CPIO had informed him vide letter dated 05/12/2007 that third party information could not be disclosed to him in terms of clause (j) of section 8(1).

5. The present Appeal is directed against the aforesaid orders passed by the ITO and CIT, TDS, Chennai.
6. The matter was heard on 17/07/2009. The complainant is not present. The public authority is represented by the officers named above. The crux of the matter is that the Appellant has given proof of deduction of TDS from his salary bill for the months of May and June, 1996, as mentioned herein above. In natural course of business, these amounts should have been remitted to the Income Tax Department but this has not happened. Hence, facially, it would appear that the company has defaulted on this count. However, no comment can be made as to whether the company deducted TDS for the remaining months of Appellant’s employment with the company as he has not proferred any proof in this regard. It is a matter of investigation to be conducted by the competent authority. We are left with an impression that the company appears to have played foul with the Appellant in the matter of non-remittance of his TDS deductions. It would, therefore, be fit and proper to have an inquiry made into the matter.

DECISION

7. In view of the above discussion, Shri A. Ravindar, Addl. CIT, Chennai, AA, is hereby directed to cause an inquiry into the matter as to whether any TDS deductions were made from the salary of the complainant for the period for which he was in the service of M/s. NEPC, Micon Limited and whether these deductions were remitted to the Income Tax Department. He will submit a report to the Commission in 06 weeks time with proposed line of further action.

8. Without prejudice to the above, we may also observe that the decision dated 05/12/2007 of CPIO to the effect that the names and designations of 63 employees and the quantum of TDS deductions made by the company cannot be disclosed to the complainant in terms of clause (j) of the RTI Act does not appear to be sustainable in law in as much as we cannot permit secrecy when there are loud and clear allegations of cheating, forgery, defalcation of accounts and embezzlement. Hence, the order dated 05/12/2007 passed by CPIO is set aside and CPIO is directed to disclose this information to the complainant in 04 weeks time.

Sd/-
(M.L. Sharma)
Central Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)
Assistant Registrar

Copy to: -
(1) Shri Philips C. Abraham,
Mulakilethu House,
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(2) Shri Andasu Ravindar(AA),
Addl.Commissioner,TDS Range-II,
Income Tax Department,
Aayakar Bhawan, M.G. Road,
Nungambakom, Chennai-600034.
(3) Shri P. Paramasivam,
Income Tax Officer, TDS Ward-II(I),
Aayakar Bhawan, M.G. Road,
Nungambakam, Chennai-600034.