

FIN-O-SCOPE

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VIBHU BAKHRU J.

TEJAS KARIA J.



Delhi High Court Upholds Tax Justice: NRI Granted Full TDS Credit Despite Buyers' Filing Error

Introduction

The Delhi High Court recently delivered a landmark judgment favoring a Non-Resident Indian (NRI) taxpayer, emphasizing that genuine tax compliance should not be denied due to procedural errors. The court ruled that the Income Tax Department must grant full Tax Deducted at Source (TDS) credit to an NRI, even though the buyers of his property filed returns under the wrong form.

This decision, in the case of Parag Keshav Bopardikar vs. Income Tax Officer & Ors., sets an important precedent for taxpayers facing similar issues. The judgment highlights the need for tax authorities to prioritize substance over technicalities when taxes have been legitimately deposited.

Key Highlights

- NRI Wins Case – Delhi HC grants TDS credit despite buyer's filing error.
- Tax Already Paid – Court rules no denial of credit if tax was deposited.
- Technicality Rejected – Wrong form (26QB vs. 27Q) shouldn't block genuine claims.
- ₹46L Demand Cancelled – Erroneous tax notice & penalty quashed.

Key Highlights

- **System Reform Urged** – Highlights flaws in TDS correction process.
- **Relief for Taxpayers** – Prevents penalties for others' mistakes.
- **Records Update Ordered** – IT Dept must fix TDS credit & refund if due.
- **Landmark Judgment** – Protects NRIs & taxpayers from rigid tax demands.
- **Case: Bopardikar vs. ITO** – Delhi HC, May 2025, Justices Bakhru & Karia.
- **NRI Victory** – Delhi HC ruled in favor of an NRI denied TDS credit due to a buyer's error.
- **Wrong Form Filed** – Buyers used Form 26QB (for residents) instead of Form 27Q (for NRIs).
- **Tax Deposited Correctly** – ₹18.68L TDS was paid but not credited to the NRI's account.
- **Unfair Tax Demand** – IT Dept later demanded ₹46.81L, ignoring the TDS already paid.
- **Court Rejects Technicality** – Ruled that tax credit can't be denied for procedural lapses.

Background of the Case

Property Sale and TDS Deduction

In 2015, Parag Keshav Bopardikar, a US-based NRI, sold a residential property in Pune for ₹2 crores. As per tax laws, the buyers were required to deduct TDS at 20% before making the payment. They correctly withheld ₹18.68 lakhs as TDS and deposited it with the government.

Procedural Error by Buyers

However, the buyers mistakenly filed the TDS return under Form 26QB, meant for resident Indian sellers, instead of Form 27Q, which applies to NRI transactions. Due to this mismatch, the tax department did not credit the TDS to Bopardikar's account.

Tax Demand and Legal Challenge

Years later, the Income Tax Department issued a tax demand of ₹46.81 lakhs, alleging non-payment of taxes. Despite Bopardikar's proof that the TDS had been deposited, the Assessing Officer refused to grant credit, citing procedural requirements. The officer even initiated penalty proceedings, prompting Bopardikar to approach the Delhi High Court.

Key Arguments Presented

Revenue's Stand: Strict Compliance Required

The Income Tax Department argued that since the TDS was filed under the wrong form, credit could not be granted without corrective documentation from the buyers. They cited their Standard Operating Procedure (SOP), which requires an indemnity bond and buyer consent to rectify such errors.

Petitioner's Counter: Unjust Denial of Credit

Bopardikar's legal team contended that the tax had already been deposited, and denying credit due to a third-party error was unfair. They emphasized that the penalty proceedings were baseless since the petitioner had no control over the buyers' filing mistake.

Court's Observations and Ruling

Substance Over Form

The court observed that the entire tax liability had been discharged, and the issue was merely a clerical error. It stressed that technicalities should not override fairness, especially when the tax department had already received the money.

SOP Cannot Override Taxpayer Rights

The Bench rejected the Revenue's argument that buyer consent was mandatory for correction. It ruled that rigid procedural requirements should not deprive taxpayers of their rightful credit when taxes have been duly deposited.

Quashing of Erroneous Demand and Penalty

The court set aside the ₹46.81 lakh tax demand, calling it "ex facie erroneous," and quashed the penalty proceedings, noting that the Assessing Officer had acted without proper application of mind.

Court's Final Directions

Correction of Records

The Income Tax Department was directed to update its records to reflect the TDS credit under Form 26QB from the original deposit date.

Refund Calculation

The department was ordered to recompute Bopardikar's tax liability and process any refund due within a reasonable time.

Withdrawal of Erroneous Orders

All prior tax demands and penalty notices were declared null and void.

Broader Implications of the Judgment

Relief for NRIs and Taxpayers

The ruling ensures that taxpayers will not suffer due to third-party filing errors if taxes have been legitimately deposited.

Precedent Against Hyper-Technical Demands

The judgment discourages tax authorities from imposing undue procedural burdens when there is no loss to the exchequer.

Need for Systemic Reforms

The case highlights flaws in the TDS credit mechanism, urging the government to simplify correction procedures for genuine errors.

Conclusion: A Victory for Fair Taxation

The Delhi High Court's decision reinforces the principle that tax laws should be interpreted fairly, not rigidly. By prioritizing real compliance over technicalities, the judgment strengthens trust in the tax system and offers relief to taxpayers facing similar challenges.

Key Highlights

- **Penalty Proceedings**
Dropped – HC quashed penalty notices against the NRI.
- **SOP Challenge** – IT Dept's strict correction process (indemnity bond, buyer consent) overruled.
- **Justice Over Procedure** – Emphasized fairness in tax administration.
- **Records Update Ordered** – IT Dept must correct TDS records under Form 26QB.
- **Refund Directed** – IT Dept told to recompute tax liability and issue refund if applicable.
- **Assessing Officer Faulted** – HC noted officer's failure to apply mind in denying credit.
- **Third-Party Error Irrelevant** – Taxpayer shouldn't suffer for others' mistakes.
- **Relief for NRIs** – Sets precedent protecting NRIs from similar TDS disputes.
- **Flaws in System Exposed** – Highlights gaps in TDS credit reconciliation.

Key Highlights

- Reforms Suggested – Calls for simpler error-correction mechanisms.
- Trust in Tax System – Reinforces confidence in fair tax enforcement.
- Landmark Ruling – Precedent against rigid tax demands without merit.
- Case Citation – Parag Keshav Bopardikar vs. ITO (WP(C) 6475/2025).
- Bench – Justices Vibhu Bakhru & Tejas Karia delivered the judgment on 27 May 2025.
- Buyer Mistake, NRI Impact – NRI suffered due to purchaser's incorrect TDS form filing.
- 20% TDS Rule Applied – Correct 20% tax rate was deducted but wrongly reported.
- Judicial Relief Granted – Court intervened to prevent injustice to compliant taxpayer.

Case Details:

- Case Name: Parag Keshav Bopardikar vs. Income Tax Officer & Ors.
- Citation: W.P.(C) 6475/2025, Delhi High Court
- Judgment Date: May 27, 2025
- Bench: Justice Vibhu Bakhru & Justice Tejas Karia

Legal Representation:

- For Petitioner: Advocates Shashi Mathews, Abhishek Boob, Sunidhi
- For Revenue: Senior Standing Counsel Debesh Panda with Junior Counsels

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