

Is the assessing officer justified in adjusting tax demand against refund and not giving tax credit for discrepancy in form 26AS?

Over the last two-years, tax payers have been experiencing:

1. Adjustment of tax refund against tax demands unknown to them;
2. Tax credit disallowed on account of discrepancies in form 26AS on which they have no control;
3. Application made for rectification of above issues, not being disposed off.

This has resulted in tax payer's feeling helpless and the local tax office not having the required resources to dispose off the application.

Recently, the Honorable Delhi High Court on a writ petition has had an opportunity to examine this issue and has given the following interim direction:

- 1. The Income Tax department should follow the procedure prescribed u/s 245 of the IT Act, 1961, which requires the assessing officer to issue prior intimation to the assessee on adjustment of the tax demand against the refund.**
- 2. If the assessing officer feels that the benefit of the TDS reflected in form 26AS should not be given, he should issue notice to the assessee to revise or correct the mistake. If the necessary correction or rectification is not made, then the demand should be raised.**

The Court has directed the revenue to file further affidavit and the case is posted for 2nd November 2012.

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