



DEL HC: Appellate TDS Refund Not Subservient To Section 200A Or Rule 31A

Facts of the Case:

Vodafone Idea Limited filed writ petitions before the Delhi High Court seeking release of TDS refunds totalling Rs. 53,09,56,470/- for Assessment Years 2003-04 and 2008-09 to 2013-14. The petitioner had won before the ITAT and, pursuant to those orders, the Assessing Officer himself passed Appeal Effect Orders confirming the refund. Despite this, the refund remained unpaid for nearly two years. When the petitioner sought payment, the Department insisted on Form 26B, then rejected it on the ground of outstanding demands against associated TANs the bulk of which had already been stayed by various courts and authorities.

Contention of the Assessee:

Once a refund arises from an assessment u/s 201 or an appellate order, it is a vested and crystallised right. Form 26B, Rule 31A and section 200A apply only at the pre-assessment CPC stage where a deductor claims refund of excess TDS - they have no application once an assessment has been made.

The only lawful mechanism to withhold or adjust such a refund is a specific order u/s 245 of the Act. No such order was passed. Withholding the refund on the ground of demands against associated TANs, without a section 245 order, is illegal and violates Articles 14, 19(1)(g) and 300A of the Constitution.

Contention of the Revenue:

It is the consistent practice of the Department to require Form 26B even when refunds arise pursuant to appellate orders. The Standard Operating Procedure issued by CPC (TDS) permits withholding of refund where outstanding demands exist against associated TANs, and the AO was justified in following it.

Reasoning and Decision of the Court:

The High Court held that sections 200A and 201 operate in entirely different spheres. section 200A and Form 26B deal with pre-assessment adjustment of TDS at the CPC level; section 201 deals with TDS assessment by the competent AO. Once a refund crystallises from a section 201 assessment or an appellate order, neither Form 26B nor Rule 31A applies, and no authority whether AO or CPC can compel an assessee to furnish Form 26B or withhold the refund on that basis.

The only legal route to withhold such a refund is a duly passed order u/s 245. Since no such order existed, the Department's refusal to release the refund citing outstanding TAN demands was held to be illegal, arbitrary, and violative of Articles 14, 19(1)(g) and 300A of the Constitution. The writ petitions were allowed. The respondents were directed to pay Rs. 53,09,56,470/- with interest u/ss 244A and 244A(1A) by 30 September 2026, failing which an additional 1% per month interest would apply. The Court noted the case warranted exemplary costs but chose not to impose them.

Citation:

[TS-1298-HC-2026(DEL)]

**Conclusion:**

The Delhi High Court ruled that Form 26B is inapplicable to TDS refunds arising from assessments u/s 201 or appellate orders, and that such refunds can only be withheld by a specific section 245 order. In the absence of any such order, withholding refund was held unconstitutional. The Department was directed to release the full refund with interest.