

ASSESSEE CAN'T BE PENALIZED FOR WRONG STATEMENT GIVEN BY PAYEE, ITAT INDORE BENCH

SHRI ANIL KHANDELWAL VS. ITO

CASE NO. -299/IND/2016

DATE- 12.10.2018

**Fact of the Case**

1. In instant case Assessee is an individual engaged in the business of transport booking.
2. The Assessee filed his return of Income & as per instruction of Apex Level ,A.O examined the applicability of provision under section 194C regarding the payment to truck operator.
3. Not being convinced with submission of assessee , the A.O disallowed under section 40(a)(ia) the non deduction of TDS under section 194C.
4. Being aggrieved the assessee made detailed submission before CIT(A) who retained the disallowance and matter carried to Tribunal.
5. The counsel for assessee submitted that truck owners had given the form no. 151 and did not mentioned about the ownership of three trucks. For this reason tax was not deducted at source.
6. On behalf of the assessee ,the Counsel also added that the form 151 received from alleged payee is in bonafide manner with a belief that the same was genuine & correct. It also argued that wrong declaration given by payee and invalid form cannot be a ground for levying tax on assessee.

**Decision of the Case**

1. The bench heard the rival submission and perused the documents on record.
2. The bench also observed that the tax was levied due to submission of wrong declaration by the payee.
3. The division bench of the Indore ITAT ruled that assessee cannot be penalized merely based on wrong statement given by payee.