

## Mere deduction of TDS doesn't close Chapter of Tax Liability unless deposited in Govt treasury: Gujarat HC allows Income Tax Refund to Pilot of Kingfisher Airlines

### Fact of the Case

- The petitioner, Kartik Vijaysinh Sonavane who is a pilot by profession and was an employee of M/s. Kingfisher Airlines. The Kingfisher Airlines deducted the Tax Deducted at Source to the tune of Rs. 7,20,100/- for the Assessment Year 2009-10 and Rs. 8,70,757/- for the Assessment Year 2011-12 in the case of the petitioner.
- The amount since had not been deposited by the Airlines in the Central Government Account, the credit when claimed by the petitioner, the same was obviously not given by the respondent and the demand had been raised with interest.
- The petitioner had filed the return of income for the assessment years 2009-10 and 2011-12 and he claimed the TDS of Rs. 7,20,100/- and Rs. 8,70,757/- respectively as the tax paid in advance.
- According to the respondent, it was the duty of the petitioner to join the necessary parties i.e. the Kingfisher Airlines as according to the petitioner, the employer has deducted the TDS and not deposited it to the government.

### Decision of the Case

- The division bench of Justice Sonia Gokani and Justice Nisha M. Thakore held that the department is precluded from denying the benefit of the tax deducted at source by the employer during the relevant financial years to the petitioner.
- “The credit of the tax shall be given to the petitioner and if in the interregnum any recovery or adjustment is made by the respondent, the petitioner shall be entitled to the refund of the same, with the statutory interest, within eight (8) weeks from the date of receipt of copy of this order,” the bench ruled.