NCLT under the IBC does not possess the jurisdiction or power to direct the refund of TDS deducted on interest accruing on fixed deposits; and that the exercise of powers regarding the refund of TDS is the exclusive prerogative of the Income Tax Authorities under the prevailing income tax laws

The **Chennai Bench of the National Company Law Appellate Tribunal (NCLAT)** in the case of **S. Dhanapal vs Income Tax Officer [Company Appeal (AT) (CH) (Ins) No. 644/2025] dated April 02, 2026**, has held that the Adjudicating Authority (NCLT) under the Insolvency and Bankruptcy Code, 2016 does not possess the jurisdiction or power to direct the refund of TDS deducted on interest accruing on fixed deposits; and that the exercise of powers regarding the refund of TDS is the exclusive prerogative of the Income Tax Authorities under the prevailing income tax laws.

The Tribunal clarified that the determination of whether a Liquidator is entitled to exemptions under Section 140 of the Income Tax Act regarding the verification and filing of income tax returns falls strictly within the decision-making domain of the Income Tax Authorities. Any challenge or appeal preferred before the NCLT or NCLAT prior to such determination by the Income Tax Authorities is premature and not maintainable.

The overriding effect of Section 238 of the IBC over the Income Tax Act cannot be invoked prematurely; it can only be subjected to judicial scrutiny after the Income Tax Authorities have made a definitive decision regarding the exemptions claimed, particularly because the IBC, 2016 is silent on the specific aspect of TDS refunds.

The Tribunal observed that the direction issued by the Adjudicating Authority (NCLT) was merely an enabling direction for the Liquidator to submit a simpliciter account showing the income and expenditure of the Corporate Debtor during the liquidation period, which was required before the Income Tax Authorities could consider the refund request. The Tribunal noted that the Appellant's challenge was a 'challenge in premonition', attempting to forestall the process and nip the problem at its bud based on an apprehension that the Income Tax Authorities would demand regular returns.

The Tribunal observed that under the IBC, 2016, there is no provision conferring power on the Adjudicating Authority to issue directions for the refund of TDS already made on the interest accruing on the fixed deposit. The exercise of powers for the refund of TDS is the prerogative of the Income Tax Authorities under prevailing income tax laws.

The intricacies of Section 140 of the Income Tax Act, its judicial interpretation, and the conditions for TDS deduction are questions required to be considered by the competent income tax authority itself, as the refund must flow from the Income Tax Authorities and not from authorities constituted under the IBC, added the Tribunal.

Regarding the Appellant's argument on the inconsistency of law and the overriding effect of Section 238 of the IBC over Section 140 of the Income Tax Act, the Tribunal observed that taxation laws operate within their own domain. The aspect of inconsistency would only come into play when the Income Tax Authorities actually take a decision pertaining to the extension or denial of the benefit under Section 140 of the Income Tax Act.

The Tribunal further noted that the IBC is silent on the aspect of refund of TDS, and inconsistency prevails only when both laws have equivalent, contradictory provisions on the subject matter. The actual cause of action to approach the competent authorities under the IBC would only arise after a decision is rendered by the Income Tax Authorities.