

## TAKING UP THE CUDGELS FOR NSS INVESTORS

Despite a large number of investment schemes with high returns being offered by the private sector, investing in government securities has retained its attraction for two reasons. Firstly, the security aspect and secondly, the tax benefits that accrue to the depositor. In the back ground of the failure by many non-banking financial institutions to repay deposits, let alone interest, the government sponsored schemes have regained popularity.

But take care, don't overlook the rules and regulations applicable to government-sponsored schemes. Or else you may land up without the benefit of interest for money invested, unless you file a complaint in the consumer forum. The reference here is to none other than the popular National Savings Scheme (NSS) of the Post and Telegraph (P&T) department.

If you are under the impression that you can open as many accounts as you are capable of under the NSS, you are inviting trouble. The P&T Department is of the view that investors cannot open more than one account under this scheme. If by ignorance you have gone ahead with more than one, the department may pay you only the principal amount and not the interest.

While this was the view taken by the Post and Telegraph Department, the National Commission has rejected the same and has ordered the P and T Department to pay interest in the case of Department of posts and Telegraphs Vs R.C.Saxena ( 1997 [1] CPR 74).

In this case, Dr R.C. Saxena opened an account under the NSS in February 1988 for Rs 20,000. Subsequently another account was opened by him in March 1989 for Rs 90,000. After retirement; he got both the accounts transferred to Nagrota in Himachal Pradesh. The trouble began during October 1991 when Dr Saxena applied for closing both the accounts.

The post office refused to pay interest on the second account. It said that under Rule 4 of The NSS Rules 1987, a depositor may open not more than one account under the scheme. It also quoted Rule 17 of the post office Savings Bank Rules which provides that any account opened against the NSS rules may be closed and the principal account refunded without interest.

On a complaint by Dr Saxena, the Himachal Pradesh State Commission rejected the contention of the Post and Telegraph Department and ordered payment of interest on the second account. The State commission has taken the view that the provision for non-payment of interest has been included purely for administrative convenience of the department and the Government of India does not seem to regard this rule as mandatory.

The state commission ordered the P&T Department to pay interest to the depositor on two grounds. Firstly, the application form which is required to be filled by the depositor at the time of opening the account does not provide for any

disclosure about the accounts already opened or held by the depositor. In the absence of such instruction, the depositor cannot be made to lose the interest.

Secondly, the State Commission also made it clear that the pass book given to the depositor after opening an account does not contain any information about the restriction placed by the department on opening more than one account. As a result, the department cannot refuse payment of interest to the account holder.

But the Post and Telegraph Department filed an appeal in the National Commission, which has upheld the decision of the State Commission. The National Commission observed that the purpose of NSS is quite different from the Post Office Savings Bank Account and both cannot be clubbed to the disadvantage of the account holder.

Under NSS, the amount withdrawn from the account by the depositor is to be included as income for the purpose of ascertaining income tax in the concerned year. Secondly, under the NSS, the amount deposited is subjected to a lock-in period. The depositor is not allowed to withdraw the amount. But the Savings Bank account in the post office does not have such a lock-in period.

Thirdly, it is very clear that restriction on opening of more than one account is purely for administrative convenience and not mandatory. The National Commission has expressed the opinion that if that rule was mandatory, non-payment of interest would also have been provided in the NSS rules. In the absence of such provision, the post and Telegraph Department cannot refuse payment of interest.

The moral of the story is better be aware of all the rules and regulations apart from what is printed in the application form. There is something more to all this than what meets the eye.

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