

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'G': NEW DELHI)**

**BEFORE SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA Nos.- 5445, 5446, 5447/Del/2017  
(Assessment Years: 2013-14, 2014-15 and 2015-16)**

The District Magistrate Officer in Charge/DDO, for the District, Magistrate, Collectrate Office, Uttarkashi, Uttarakhand, Pin- 249 193	Vs.	ITO, TDS, Haridwar
<b>TAN No:</b> MRTD01328F		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Sh. Rajiv Nanda, Standing Counsel  
**Revenue by** : Sh. N.K. Bansal, Sr. DR

**ORDER**

**PER: ANADEE NATH MISSHRA, AM**

These three appeals are filed against separate orders each dated 23.05.2017 of Commissioner of Income Tax (Appeals) ['CIT(A)' for short], Dehradun in Appeal Nos. 487, 488 and 489/CIT(A)/DDN/2015-16. The grounds of appeal are as under:

**Grounds of appeal in ITA No. 5445/Del/2017 against Appeal No.  
487/CIT(A)/DDN/2015-16 for AY 2013-14**

*“That on the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in sustaining the demand of Rs. 3,46,363/- solely on basis that the assessee has made default on account of tax that was failed to be deducted.”*

**Grounds of appeal in ITA No. 5446/Del/2017 against Appeal No.  
488/CIT(A)/DDN/2015-16 for AY 2014-15**

*“That on the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in sustaining the demand of Rs. 3,53,069/- solely on basis that the assessee has made default on account of tax that was failed to be deducted.”*

**Grounds of appeal in ITA No. 5447/Del/2017 against Appeal No.  
489/CIT(A)/DDN/2015-16 for AY 2015-16**

*“That on the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in sustaining the demand of Rs. 3,11,930/- solely on basis that the assessee has made default on account of tax that was failed to be deducted.”*

**2.** As similar issues are involved, the three appeals are hereby disposed off through this consolidated order. The Assessing Officer(‘AO’ for short) passed separate orders U/s 201(1)/201(1A) of Income Tax Act(‘IT Act’ for short) on 30.12.2015 for Assessment Year(‘AY’ for short)s – 2013-14, 2014-15 and 2015-16 raising demands of Rs. 3,46,363/- for AY 2013-14, Rs. 3,53,069/- for AY 2014-15 and Rs. 3,11,930/- for AY 2015-16; the breakup of which is summarized in the following tabular form as follows:

<b>Sl. No.</b>	<b>Assessment Year</b>	<b>Short charge of tax deducted at source</b>	<b>Interest U/s 201(1A) of IT Act</b>	<b>Total short charge including interest</b>
1	2013-14	2,59,989/-	86,374/-	3,46,363/-
2	2014-15	2,91,833/-	61,236/-	3,53,069/-
3	2015-16	2,86,190/-	26,740/-	3,11,930/-

**2.1.** These orders U/s 201(1)/201(1A) of IT Act were passed by the AO after examination of the records of the Office of the District Magistrate, Uttarkashi (The Assessee) during which AO observed that no quarterly statement U/s 200(3) of IT Act in Form No. 26Q had been filed by the Assessee. Even though the Assessee had paid huge amount to District Government Councils as provisional fees for the years under reference, thereafter a verification letter was issued by the AO to the Assessee to furnish information with regard to

deduction of tax on payments made to District Government Councils. On receipt of the replies the AO that provisional fees in excess of Rs. 30,000/- had been paid by the Assessee to different persons for the years under reference and no tax have been deducted at source U/s 194J(1)(a) of IT Act.

**2.2.** Aggrieved by the aforesaid orders of the AO U/s 201(1)/201(1A) of IT Act the Assessee filed appeal before the Ld. CIT(A). Vide aforesaid separate orders each dated 23.05.2017 of the Ld. CIT(A) the appeals filed by the Assessee were dismissed.

**2.3.** Aggrieved again, the Assessee has filed these present appeals in Income Tax Appellate Tribunal('ITAT' for short). The appeals filed by the Assessee in ITAT are late by fourteen days having regard to time prescribed U/s 253(3) of IT Act. The Assessee has submitted petition for condonation of delay in filing of the appeal, as per Section 253(5) of IT Act. The relevant portion of the petition is reproduced as under:

1. *"That the appeal filed by the Assessee before The Commissioner of Income Tax (Appeals), Dehradun was disposed of by order dated 23.05.2017 passed by The Commissioner of Income Tax (Appeals), Dehradun.*
2. *That the time for filing of the appeal before the Tribunal was to expire on 11.08.2017.*
3. *That the place Utrakhashi is situated in the remote hills of Garhwal region in the state of Uttarakhand.*
4. *That the only means of conveyance is through road transport and during the months of June, July and August 2017 the district witnessed multiple natural calamities and landslides.*
5. *That at Utrakhashi no professional resource is available in respect of Income Tax matters.*
6. *That on 12th August 2017, on the improvement of climatic conditions a staff was deputed to travel to Dehradun and get the appeal and other enclosures drafted. Thereafter the said documents reached Utrakhashi on 17th August 2017 for necessary signature and accordingly were dispatched back to Dehradun to reach there by 21st August 2017.*

7. *That the memo of Appeal is being presented today i.e. 23.08.2017 to the Office of the Tribunal.”*

In view of the aforesaid reasons, the delay in filing of appeal in ITAT is condoned, and the three appeals are admitted U/s 253(5) of IT Act.

**3.** In the course of appellate proceedings in ITAT the following additional evidences were filed by the Assessee:

<b>S. No.</b>	<b>Description</b>
1	Income Tax Return filed by the Assessee Prem Singh Bhandari on 30.07.2013 in AY 2013-14
2	Income Tax Return filed by the Assessee Hukum Singh Rawat on 21.03.2013 in AY 2013-14
3	Income Tax Return filed by the Assessee Gambhir Singh Chauhan on 16.03.2013 in AY 2013-14
4	Income Tax Return filed by the Assessee Devendra Singh Negi on 20.03.2013 in AY 2013-14
5	Income Tax Return filed by the Assessee Rajendra Prasad Jaguri on 28.03.2013 in AY 2013-14
6	Income Tax Return filed by the Assessee Anil Chand Ramola on 27.03.2014 in AY 2014-15.
7	Income Tax Return filed by the Assessee Hukum Singh Rawat on 27.03.2014 in AY 2014-15
8	Income Tax Return filed by the Assessee Dharmendra Singh Bisht on 21.03.2014 in AY 2014-15
9	Income Tax Return filed by the Assessee Gambhir Singh Chauhan in AY 2014-15
10	Income Tax Return filed by the Assessee Devendra Singh Negi in AY 2014-15
11	Income Tax Return filed by the Assessee Rajesh Kumar in AY 2014-15
12	Income Tax Return filed by the Assessee Rajendra Prasad Jaguri on 27.03.2014 in AY 2014-15
13	Income Tax Return filed by the Assessee Mahendra Singh Panwar in AY 2014-15
14	Income Tax Return filed by the Assessee Kriti Prasad Bhatt on 27.03.2014 in AY 2014-15.
15	Income Tax Return filed by the Assessee Anil Chand Ramola in AY 2015-16.
16	Income Tax Return filed by the Assessee Hukum Singh Rawat on 04.03.2015 in AY 2015-16.
17	Income Tax Return filed by the Assessee Dharmendra Singh Bisht on 25.03.2015 in AY 2015-16.
18	Income Tax Return filed by the Assessee Rajesh Kumar in AY 2015-16
19	Income Tax Return filed by the Assessee Rajendra Prasad Jaguri on 24.03.2015 in AY 2015-16

**3.1.** At the time of hearing before us the Ld. Counsel for Assessee prayed for admission of the aforesaid additional evidences on the following ground:

*“ The appellant wishes to place on record the accompanying documents. The said documents were not in possession of the Appellant earlier. thus the same were not placed before either the AO or the CIT(A).”*

**3.2.** At the time of hearing before us the Ld. Counsel for Assessee once again reiterated the prayer for admission of additional evidences in view of the aforesaid grounds. The Ld. Departmental Representative (‘DR’ for short) relied on the orders of the AO and the Ld. CIT(A).

**3.3.** We have heard both sides and we have also perused the materials on record. In view of the grounds stated by the Assessee for admission of the aforesaid additional evidences; we admit the additional evidences. As the additional evidences filed during the course of appellate proceedings by the Assessee were not available to the lower Authorities, namely the AO and the CIT(A), we restore the issues in dispute to the file of the AO with the direction to pass *de-novo* orders U/s 201(1)/201(1A) of IT Act as per law after due consideration of the additional evidences now filed in ITAT by the Assessee, and after giving the Assessee an opportunity of being heard. Thus the impugned orders of the Ld. CIT(A) are hereby set aside and disputed issues are restored to the file of the AO with the aforesaid directions. In the result these three appeals are partly allowed for statistical purposes.

Order pronounced in the open court on 26.02.2019.

Sd/-  
**(SUDHANSHU SRIVASTAVA)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 26.02.2019  
*Bidhan*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	