

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos. 2078 & 2079/H/2017 Assessment Years: 2013-14 & 2014-15		
Income-tax (TDS), Ward - 2(2), Hyderabad.	Vs.	Sree KTM Trust, Hyderabad. PAN - AAGTS 1988R
(Appellant)		(Respondent)
Revenue by:		Shri Rohit Mujumdar
Assessee by:		Shri S. Rama Rao
Date of hearing:		10/08/2021
Date of pronouncement:		30/08/2021

ORDER

PER L.P. SAHU, A.M.:

Both these appeals filed by the Revenue are directed against CIT(A) - 8, Hyderabad's common order dated 25th September, involving proceedings u/s 201(1) and 201(1A) of the Income- Tax Act, 1961; in short "the Act".

2. As regards ITA No. 2078/Hyd/2017 for AY 2013-14, at the time of hearing, it has been brought to our notice that as

per the CBDT Circulars No.03/2018 dated 11.07.2018 and Circular No.17 of 2019 dated 9th August, 2019, the tax limit for filing of appeal by the Revenue before the Tribunal has been fixed at Rs.50.00 lakhs. Since the tax effect in this appeal is less than Rs.50.00 lakhs, we are dismissing the same on account of low tax effect with the liberty to the Revenue to seek recall of the order, if any of these cases falls within the exceptions mentioned in the Circulars cited above.

3. In the result, Revenue's appeal is dismissed in above terms.

4. As regards ITA No. 2079/Hyd/2017 for AY 2014-15, the AO raised a demand u/s. 201(1) on the ground that as on the date of passing of the impugned order i.e. on 31.03.2016, scrutiny assessment u/s. 143(3) was not completed and therefore, raised the demand on the default of non deduction of tax u/s. 201(1) of Rs. 56,81,752/-.

5. When the assessee preferred an appeal before the CIT(A), the CIT(A) observed that the AR submitted that the Act specifies that the deductor shall not be deemed to be an assessee in default if the deductee has filed the return of income u/s. 139 and has taken into account to such sums for computing income and paid the tax due on income declared in the return of income. As can be seen from the

section, the crucial material factor for not deeming the deductor as assessee in default is filing of return by the deductee u/s. 139 and declaration of such receipt for computing income and paying the tax due. It is evident from the order of the AO that it was stretched to the stage of completion of assessment u/s. 143(3) which is neither mandated nor allowable under law. It is not the contention of the AO that the deductor has not filed the return u/s. 139 and the due tax has not been paid on the said receipts. In view of the above, the action of the AO in raising the demand u/s. 201(1) of Rs. 56,81,752/- is held to be not as per the sanction of law and therefore deleted.

6. Aggrieved by the order of CIT(A), the revenue is in appeal before the ITAT.

7. We have considered the rival submissions and perused the material on record. Before us, the assessee has filed Form 26A and a certificate from CA under the provisions of section 201 that the recipient has included the receipts while computing its income. Therefore, for a limited purpose, we remit this issue to the file of AO for the purpose of verification of Form No. 26A. The AO is also directed to calculate the interest u/s 201(1A) for a period of default of interest.

8. In the result, appeal of the revenue for AY 2014-15 is treated as allowed for statistical purposes.

9. To sum up, appeal in ITA No. 2078/Hyd/2017 is dismissed and the appeal in ITA No. 2079/Hyd/2017 is allowed for statistical purposes.

Pronounced in the open court on 30th August, 2021.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(L. P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 30th August, 2021.

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Copy to :

1	<i>ITO, TDS, Ward - 2(2), 4th Floor, 'D' Block, Room No. 447, IT Towers, AC Guards, Masbad Tank, Hyderabad. - 500 004</i>
2	<i>M/s Sree KTM Trust, 1-2-888/23/1, Domalguda, Hyderabad.</i>
3	<i>CIT(A) - 8, Hyderabad.</i>
4	<i>CIT (TDS), Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>

S.No.	Details	Date
1	Draft dictated on	
2	Draft placed before author	
3	Draft proposed & placed before the Second Member	
4	Draft discussed/approved by Second Member	
5	Approved Draft comes to the Sr. PS/PS	
6	Kept for pronouncement	
7	File sent to Bench Clerk	
8	Date on which the file goes to Head Clerk	
9	Date on which file goes to A.R.	
10	Date of Dispatch of order	