

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. AMIT SHUKLA, JUDICIAL MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.7538/Del/2018  
Assessment Year: 2017-18

<b>District Mining Officer, DM Compound, Shamli-247776 PAN No. MRTDO2628D</b>	<b>Vs</b>	<b>ITO(TDS) Muzaffarnagar</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	None
Respondent by	Sh. Kumar Pranav, Sr. Dr.

Date of hearing:	24/11/2021
Date of Pronouncement:	24/11/2021

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order of the CIT(A), Muzaffarnagar dated 28.03.2018 pertaining to A.Y. 2017-18.

2. The grievance of the assessee read as under :-

1. That having regard to the facts and circumstances of the case, the Learned CIT (A) has erred in holding that the AO was justified in treating the Appellant as an "*assessee in default*" and determining the liability under Section 206C(6A) & (7) of the Income Tax Act,1961.
2. That having regard to the facts and circumstances of the case, the Learned CIT (A) has erred in holding that the Activities of the Appellant are in the nature of requiring the collection of Tax at Source as per the provisions of Section 206C of the Income Tax Act,1961.
3. That having regard to the facts and circumstances of the case, the Learned CIT (A) has erred in holding/confirming the imposition of Penal Interest under Section 206C(7) of the Income Tax Act,1961, in a situation which is beyond the control of the Appellant and is arbitrary in nature and is against the principles of natural justice and ignores the law of presumption.
4. That the Learned CIT (A) has failed to properly appreciate the various submissions made in Written Submissions Dated 23.03.2018 and has erred in rejecting each of the Points raised therein.
5. That the Appellant prays to be allowed the permission to submit further evidence/judgments/written submissions at the time of hearing before the Hon'ble Bench of ITAT.

3. None appeared on behalf of the assessee. We heard the Ld. DR and have carefully perused the orders of the authorities below. We find that on identical set of facts this Tribunal in ITA No.7535-7537/Del/2018 for A.Y.2013-14 to 2016-17 has decided similar grievance. The relevant findings of this Tribunal read as under :-

5. On perusal of the order of the Ld. CIT(A), we find that liability raised by the Assessing Officer has been upheld in view of non-furnishing of form No. 27BA in terms of first provision to section 206C(6A) of the Act by the assessee, though certificate from the chartered accountant that licensees had already deposited their respective tax liability was filed. We find that assessee is a Government Authority and has partly complied with the requirement of law, and therefore, one more opportunity may be granted to him for complying for filing of form No. 27BA as required in terms of first provision to section 206C(6A) of the Act . In the interest of substantial justice, we restore this issue back to the file of the Learned Assessing Officer for providing one more opportunity for making compliance of first provision to section 206C(6A) of the Act. It is needless to mention that the assessee shall be provided adequate opportunity of being heard. The grounds of the appeal of the assessee are accordingly allowed for statistical purposes.

6. In the result, the appeals filed by the assessee are allowed for the statistical purposes.

4. Respectfully following the findings of the Tribunal (supra) we give similar directions to the AO.

5. In the result, the appeal filed by the assessee is allowed for statistical purpose.

4. Decision announced in the open court in the presence of both representatives on 24.11.2021.

Sd/-  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

\*NEHA\*

Date:-24.11.2021

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
 ITAT NEW DELHI

Date of dictation	24.11.2021
Date on which the typed draft is placed before the dictating Member	24.11.2021
Date on which the typed draft is placed before the Other member	24.11.2021
Date on which the approved draft comes to the Sr.PS/PS	24.11.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	24.11.2021
Date on which the fair order comes back to the Sr. PS/ PS	24.11.2021
Date on which the final order is uploaded on the website of ITAT	24.11.2021
Date on which the file goes to the Bench Clerk	24.11.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	