

**आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं**  
**माननीय श्री संजय सरमा, न्यायिक सदस्य के समक्ष।**

**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM AND**  
**HON'BLE SHRI SONJOY SARMA, JUDICIAL MEMBER**

Sr. No	Appeal Numbers	Assessment Years	Appellant	Respondent
1	ITA No.393/Chny/2022	2016-17	<b>M/s. Prime Indian Hospitals Pvt. Ltd.</b> No.105, P.H. Road, Arumbakkam, Chennai – 600 106. <b>[PAN: AACCN-9372-R]</b> <b>[TAN: CHEN-06665-B]</b>	The CPC, Bengaluru.
2	ITA No.394/Chny/2022	2016-17		
3	ITA No.395/Chny/2022	2016-17		
4.	ITA No.396/Chny/2022	2016-17		
5.	ITA No.397/Chny/2022	2016-17		
6.	ITA No.398/Chny/2022	2016-17		

अपीलार्थी की ओरसे/ <b>Assessee by</b>	:	Shri N. Arjunraj (C.A) for Shri S. Sridhar (Advocate) – Ld. ARs
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Ms. M.S. Deeptha (JCIT) – Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	24-08-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	24-08-2022

**आदेश / ORDER**

**Per Bench:**

1. In these bunch of appeals, the assessee is aggrieved by separate orders of learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] all dated 26-03-2022, for various quarters of Assessment Year (AY) 2016-17, confirming demand raised by TDS CPC, Ghaziabad for short payment of Tax Deduction at source (TDS), interest on short payment of TDS, late filing fees u/s. 234E and interest u/s. 220(2) of the Act.

2. The Ld. AR, at the outset, placed on record petition u/r 29 of the Income Tax Appellate Tribunal Rules, 1963 for admission of additional evidences. The Ld. AR submitted that these evidences could not be produced before the lower authorities for the reasons beyond the control of the assessee. These additional evidences are stated to be in the shape of criminal proceedings initiated by the assessee against the Chartered Accountant for misappropriation of the Government funds being the amounts remitted by the assessee company to the said Chartered Accountant towards statutory payment including TDS. The Ld. AR submitted that the funds were remitted by the assessee from time to time for deposit of TDS amounts which were misappropriated and never remitted to Income Tax Department. Accordingly, the demand has been raised against the assessee while processing TDS returns. The aforesaid facts came to the light only when recovery proceedings were initiated by the department against the assessee. The Ld. AR submitted that the assessee had sought further time during first appellate proceedings to explain the case which was denied and the impugned orders were passed in gross violation of the principles of natural justice. The Ld. AR submitted that since these are subsequent events, the assessee could not have furnished the same earlier. The Ld. AR also sought shelter of proviso to Sec.201(1) which prescribes that the assessee would not be deemed to be assessee-in-default if it fulfills the conditions prescribed therein. In this background, Ld. AR pleaded for admission of additional evidences under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963.

3. The Ld. Sr. DR, on the other hand, opposed admission of additional grounds and submitted that the demand has correctly been

raised against the assessee since the dues have not been remitted to the credit of government.

4. Upon perusal of additional evidences and keeping in mind the assertions made by Ld. AR before us, we find that the assessee has a reasonable case. These evidences as well as application of proviso to Sec.201(1) would have material bearing on the demand raised by the revenue. Therefore, keeping all the issues open, we admit the additional evidences and restore the matter back to the file of jurisdictional TDS officer to examine the claim of the assessee and adjudicate the same in accordance with law. Needless to add that adequate opportunity of hearing shall be granted to the assessee. The assessee, in turn, is directed to substantiate its stand qua demand raised against him.

5. All the appeals stand allowed for statistical purposes.

Order pronounced on 24<sup>th</sup> August, 2022.

Sd/-  
(SONJOY SARMA)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 24-08-2022  
EDN/-

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF