

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER &
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
(through virtual hearing)

Sl. No.	ITA No.	Name of the Applicant	Name of Respondent	Asst. Year
1	393/Nag/2022	Bank of India, Dharmpeth Branch Nagpur Zonal Office, 3 rd Floor, CSD Dept., Kingsways, Nagpur Maharashtra PAN : AAACB 0472 C	DCIT/ACIT (TDS), Circle-51(1),Nagpur	2013-14
2	394/Nag/2022	Bank of India, Reshimbag Branch	-do-	2012-13
3	395/Nag/2022	Bank of India, Butibori Branch	-do-	2012-13
4	396/Nag/2022	Bank of India, Butibori Branch	-do-	2013-14
5	397/Nag/2022	Bank of India, Besa Branch	-do-	2012-13
6	398/Nag/2022	Bank of India, Takalghat Branch	-do-	2012-13
7	399/Nag/2022	Bank of India, Dongargaon Branch	-do-	2012-13
8	400/Nag/2022	Bank of India, UMRED Branch	-do-	2012-13
9	401/Nag/2022	Bank of India, Ranapratapnagar Branch	-do-	2014-15
10	402/Nag/2022	Bank of India, RT Road Branch	-do-	2014-15
11	403/Nag/2022	Bank of India, Nagpurmain Branch	JCIT(TDS), Range-1 Nagpur	2010-11
12	404/Nag/2022	Bank of India, Medical College Branch	-do-	2010-11
13	405/Nag/2022	Bank of India, Ajnisquare Branch	-do-	2010-11
14	406/Nag/2022	Bank of India, Ajnisquare Branch	DCIT/ACIT (TDS), Circle-51(1),Nagpur	2013-14
15	407/Nag/2022	Bank of India, Kamptee Branch	-do-	2012-13
16	408/Nag/2022	Bank of India, Kamptee Branch	-do-	2013-14

Assessee by	:	Shri Pratik Sadrani, CA
Revenue by	:	Shri Rajat Singhai, Sr.DR
Date of hearing	:	25/09/2023
Date of pronouncement	:	26/09/2023

O R D E R

Per Bench:

These sixteen appeals arise out of different orders passed by the National Faceless Appeal Centre (NFAC), Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment years 2010-11, 2012-13 & 2013-14. Since common issues are raised in these appeals, we therefore proceed to dispose them of by this consolidated order for the sake of convenience.

2. The parties before us have conceded that the facts and circumstances and the issues involved in all these appeals are absolutely similar and identical. That, for the fact of the matter, further it was submitted by the Id.AR that the adjudication for justice in all these appeals shall be served by following the decision of the Nagpur Bench of the Tribunal in assessee's own case in group of appeals vide order dated 28/03/2023 on absolutely identical facts and issues. Ld.DR conceded to this submission.

3. We find that in the said referred order, the facts have been illustrated at paras 2 & 3 of the said order which are extracted as follows:-

"2. The foremost issue raised in these appeals is against the confirmation of the orders passed by the AOs u/s.201(1)/201(1A) of the Act treating the assessee in default for non-deduction of tax at

source u/s 194A on interest paid/credited to its customers and also non-condonation of delay by the Id. CIT(A) in presenting the appeals before him.

3. Briefly stated, the facts of the case in the captioned appeals are that the assessee is a Nationalised Bank engaged in the banking business. Section 194A mandates that tax has to be deducted at source in respect of interest paid/credited to the account of the customers. A spot verification in some branches of the assessee bank was conducted in March, 2016 and default in compliance was found anent to the TDS provisions under the section. Information was collected from Zonal office as regards the branches paying/crediting interest to customers' accounts, for an amount in excess of the basic exemption limit, without deduction of tax at source on receiving Form Nos.15G/15H. On perusal of such information, the AO noted certain cases, as tabulated in his order, where interest paid was more than the relevant basic exemption limits but no deduction of tax at source was made on receiving Form Nos.15G/15H. After considering the reply and getting partially satisfied, the AO held the assessee to be in default u/s.201. No succor was provided by the Id. CIT(A) on merits, who also dismissed the appeals filed before him as time barred."

4. That, so far as merits of the cases are concerned, the relevant observations are at paras 7 & 8 which are as follows:-

"7. Next issue which survives on merits is about the liability of the assessee to deduct tax at source. We have discussed the issue lock stock and barrel in ITA No.277/Nag/2022, drawing the following conclusions:

i. The question whether the assessee is in default in terms of section 201(1) needs to be determined in the light of Explanation to section 191. Howbeit, the cases covered u/s 197A(1A) [i.e. the eligible person furnishing declaration in form No. 15G that his tax liability on total income, including the interest, will be Nil] but not hit by section 197A(1B) [i.e. interest income other than interest on securities as referred to in section 194A does not exceed the basic exemption limit], will at the outset be excluded from consideration as not entailing any obligation to deduct tax at source. Similarly, the cases covered u/s 194A(1C) [i.e. persons exceeding the specified age furnishing form No. 15H to the effect that tax on their total income including such interest will be Nil] will also be excluded.

ii. Interest u/s 201(1A) is payable by the assessee - even w.r.t. the cases where it is not in default in terms of Explanation to section 191 - from the date when the tax was deductible up to the date of filing of return by the payee including the interest income in his total income. However, the cases in which there is no obligation to deduct tax at source will not be considered for interest u/s 201(1A) of the Act.

8. *In the ultimate conclusion, we set aside the impugned orders and send the matter back to the respective AOs for passing fresh orders u/s 201(1)/(1A) in the light of above directions. In case it is found that the recipients included the amount of interest in their total income, then the assessee should not be treated in default in terms of section 201(1). Needless to say, the assessee will be allowed adequate opportunity of hearing in such fresh proceedings."*

5. Respectfully following the aforesaid judicial pronouncement and on the same parity of reasoning, these matters are also restored to the file of respective AOs for adjudication as per law following the same direction as has been given in the above referred Tribunal's order in assessee's own case.

6 Further, Id.AR had stated that ITA Nos. 403, 404 & 405/PUN/2022 pertains to levy of penalty u/sec. 271(1)(c) of the Act. However, we find that first the matter on substantive merits should be decided by the AO and, therefore, for the sake of completeness, these matters are also restored to the file of the AO. Thus, all these 16 appeals and their respective grounds are allowed for statistical purposes.

7. In the result, all the appeals of the assessee stands allowed for statistical purposes.

Order pronounced in open Court on 26th September, 2023.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 26th September, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
4. The DR, ITAT, Nagpur Bench, Nagpur.
5. Guard File.

By Order

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Senior Private Secretary
ITAT, Pune.