

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "A" Bench, Mumbai.

Before Smt. Beena Pillai (JM) & Shri Omkareshwar Chidara (AM)

I.T.A. No. 4230/Mum/2024 (A.Y. 2018-19)

AP Estates LLP 12 <sup>th</sup> Floor, Chinar Building, A Wing Ra Kidwai Road Next Yuganda Petrol Pump, Wadala West Mumbai-400 031.  PAN : ABIFA8982E  (Appellant)	Vs.	Addl/JCIT(A)-2 Delhi.       (Respondent)
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Assessee by	None
Department by	Shri Ram Krishn Kedia
Date of Hearing	26.09.2024
Date of Pronouncement	29.10.2024

ORDER

Per Omkareshwar Chidara (AM) :-

The sole issue to be decided in the appeal of M/s. AP Estate LLP, is whether the first appellate authority has erred in confirming the addition made by the learned Assessing Officer (Ld. AO for short) w.r.t. non-deduction of tax on certain expenses.

2. From the Order under section 201(1A) of the Income Tax Act (Act for short) passed by the Ld. AO of TDS, it is observed that the appellant has not made TDS on certain payments like legal and consultancy fees and brokerage and commission expenses. Accordingly, the Ld. AO held that the TDS liability on payment made under section 194J and 194H works out to Rs. 1,63,198/-. As there is a delay in filing the statement of TDS in Form 26QB, the Ld. AO has levied

interest under section 234E of the Act also to the extent of Rs. 91,800/-. Thus, the Ld. AO made following additions :-

- i) amount payable u/s. 201 of the Act for non-deduction of TDS Rs. 91,800/-.
- ii) amount payable u/s. 201(1A) on account of interest for delayed payment Rs. 71,398/-.
- iii) late filing levy u/s. 234E Rs. 91800/-

Thus the total amount payable was quantified at Rs. 2,54,998/- and the appellant was directed to pay this demand.

3. Aggrieved by these additions, the appellant filed an appeal before the Additional/JCIT(A)-2, Delhi. The appellate authority has given four opportunities and then confirmed these additions made by the Ld. AO by noting that despite giving various opportunities to represent the case, the appellant has chosen not to submit any documents nor gave any explanation and hence it was held that the appellant has not shown any interest in pursuing the appeal. Accordingly, the appeal of the appellant was dismissed by the first appellate authority.

4. Aggrieved by the orders of the Ld. AO and the Add.CIT(A), further appeal was filed before the ITAT, Mumbai stating that due to certain unavoidable reasons, appellant could not file relevant documents and explanation for not deducting the TDS.

5. On 26.9.2024, the case was taken up for hearing and the appellant was not represented by anyone. Per contra, Ld. DR has argued that the order of the Ld. AO is correct and pleaded that the same may be confirmed.

6. After going through the orders of the Ld. AO and the Ld. CIT(A) and hearing Ld. DR, it is decided that one more opportunity is to be given to the appellant to file all relevant documents and information before the first appellate authority and cooperate with the Department. The issue, accordingly is remitted to the file of the Ld. CIT(A). The Ld. CIT(A) is directed to see all the aspects afresh and pass a speaking order after giving an opportunity to the appellant.

7. The appeal of the appellant is allowed for statistical purposes.

Order pronounced in the open court on 29<sup>th</sup> October, 2024.

Sd/-  
(Beena Pillai)  
Judicial Member

Sd/-  
(Omkareshwar Chidara)  
Accountant Member

Mumbai : 29.10.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai