IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI

SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 2351/MUM/2024	**ITA No. 2348/MUM/2024**
(Assessment Year: 2017-18)	**(Assessment Year: 2018-19)**
ITA No. 2347/MUM/2024	**ITA No. 2345/MUM/2024**
(Assessment Year: 2019-20)	**(Assessment Year: 2020-21)**

Piramal Capital And Housing Finance Limited.
Unit 601, 6th Floor, Amiti Building,
Piramal Agastya Corporate Park,
Kamani Junction,
Kurla West – 400019, Maharashtra.
[PAN: AAACD1977A] ..... **Appellant**

Vs

Assistant Commissioner of Income Tax
TDS- 1(1)(1), Mumbai
615, Smt. K.G.Mittal Ayurvedic Hospital
Bldg., Charni Road (W),
Mumbai- 400002, Maharashtra. ..... **Respondent**

Appearance

For the Appellant/Assessee	**:**	Shri Yogesh Thar, Shri Ronak Doshi & Shri Priyank Gala
For the Respondent/Department	**:**	Ms. Madhu Malati Ghosh & Shri Raj Singh Meel

Date

Conclusion of hearing	**:**	29.08.2024
Pronouncement of order	**:**	25.11.2024

O R D E R

Per Bench:

1. These are four appeals preferred by the Assessee pertaining to Assessment Years 2017-2018, 2018-2019, 2019-2020 and 2020-2021. Since identical issues were raised in the appeals, the same were heard together and are, therefore, being disposed by way of a common order.

2. We would first take appeal for Assessment Year 2017-18.

ITA No.2351/Mum/2024 (Assessment Year 2017-18)

3. This appeal has been preferred by the Assessee against the order, dated 07/03/2024, passed by the Commissioner of Income Tax (Appeals)-53, Mumbai [hereinafter referred to as the '**CIT(A)'**] for the Assessment Year 2017-18, whereby the Ld. CIT(A) had partly allowed the appeal of the Assessee against the Order, dated 10/02/2020, passed Under Section 201(1)/201(1A) of the Income Tax Act, 1961 [hereinafter referred to as '**the Act**'].

3.1. The Assessee has raised following grounds in appeal:

I. Ground I

"1. On the facts and circumstances of the case and in law, the Ed. CITIA) erred in upholding the order of ACTT (TDS)-2(1) Mumbai. ("AO") by treating Appellant as Assessee-in- Default for non-deduction of tax without first determining whether recipient has paid tax in accordance with section 191 of the Act.

2. The Appellant prays that in absence of finding that the recipient has not directly paid taxes or discharged its tax liability, if any, the Appellant cannot be treated as an Assessee-in-Default us 201 of the Act and hence the said order be quashed.

II. Without prejudice to Ground I
Ground II

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the action of AO of treating the assessee as an 'Assessee-in-Default' on alleged non-deduction of tax in respect of purchase consideration in respect of non-convertible debentures, inter-company deposits and term loans u/s 193 and 1944 of the Act.

2. The Ld. CIT(A), inter-alia, failed to appreciate that:

i. In absence of the income component in the said transaction, the provisions of TDS as laid under Section 193 and Section 194/A of the Act cannot apply.

ii. Since, the securities are purchased at the carrying value from the Transferor, the interest element embedded in the cum-interest price should be treated as the part of the purchase price.

iii. No borrower-lender relationship exists between the Transferor and Appellant and hence no liability arises to deduct the tax under Section 193 and Section 194A of the Act.

iv. The amount of interest accrued till the date of transfer already suffers tax deduction at source by the principal borrower either at the time of credit or at the time of payment of interest and thus the same income cannot be made subject to tax deduction twice.

v. The Transferor has considered the accrued interest from the borrower for the period till the date of transfer while computing its total income and duly offered the same to tax and thus now no liability arises to deduct the tax on the said transaction.

3. The Appellant prays that it be held that no tax is to be deducted on the purchase consideration so paid and thus the action of the Assessing Officer, upheld by Ld. CIT(A), or treating the Appellant as 'Assessee in default' u/s.201 of the Act and consequential levy of interest u/s. 201(1A) be quashed.

III. Without prejudice to Ground I and Ground II
Ground III:

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in passing the Impugned Order without considering and submissions in form of Form 26A filed physically by the Appellant as the same could not be filed online due to the technical glitches (particularly where multiple years are involved) on the portal.
2. The Appellant prays that based on the Form 26A filed physically by the Appellant, the AD he directed to not treat the Appellant as Assessee-in-Default' u/s 201 of the Act and hence the said order be quashed

IV. Ground IV: CHARGING OF INTEREST UNDER SECTION 201(14) OF THE ACT:

1. On the facts and circumstances of the case and in law, the AG erred in levying interest u/s. 201(1A) of the Act. In consequence to the aforesaid grounds, no tax demand u/s 201 of the Act may sustain and consequently, no interest s/s 201(1A) of the Act could be levied.
2. The Appellant this prays that the interest levied us 201(14) of

the Act be deleted or appropriately reduced

V. General

The Appellant craves leave to add to, alter and / or amend all or any of the foregoing grounds of appeal.

4. The relevant facts are brief are that the Appellant is a non-deposit taking non-banking finance company registered with the Reserve Bank of India engaged, inter alia, in the business of lending. During the relevant previous year the Appellant purchased from Piramal Enterprises Ltd. (**PEL**), related entity of the Appellant, Non-Convertible Debentures (**NCDs**), Inter Corporate Deposits (**ICDs**) and Term Loans portfolio. A Survey under Section 133B(2) of the Act was conducted at the premises of the Appellant on 19/11/2019, in which it was discovered that during the relevant previous year the Appellant had credited following interest income to the Profit and Loss Account in relation to NCDs, ICDs and Term Loans portfolio purchased from PEL from which tax had not been deducted at source.

SNo.	Instrument	Principal Value	Accrued Interest	Total Assets Transferred
1	ICDs	2175,09,59,137	53,48,82,609	2207,70,45,747
2	NCDs (Unlisted)	10008,76,90,602	436,15,38,091	10267,67,16,759
3	Term Loans	63,90,00,000	69,73,124	64,59,73,124
	Grand Total	**12247,76,49,739**	**490,33,93,825**	**12539,97,35,629**

4.1. The Assessing Officer noted that the NCDs, ICDs and Term Loans were purchased from PEL at carrying value comprising of principle value and accrued interest. According to the Assessing Officer the payment of INR.490,33,93,825/- made by the Appellant to PEL in

excess of the principle value constituted income liable to tax in the hands of PEL. INR.5,41,85,573/- was in the nature of 'Interest Other Than Interest on Securities', and therefore, the Appellant was under obligation to withhold tax in respect of the same under Section 194A of the Act. Whereas, INR.484,92,08,252/- was in the nature of 'Interest on Securities', and therefore, the Appellant was under obligation to withhold tax in respect of the same under Section 193 of the Act.

4.2. By way of notice, dated 13/12/2019 and 24/01/2020, the Appellant was asked to show cause as to why the Appellant should not be treated as deemed to be an Assessee in default within the meaning of Section 201(1)/201(1A) of the Act on account of its failure to deduct tax at source from accrued interest on ICDs and Term Loans in terms of Section 194A of the Act and accrued interest on NCD's in terms of Section 193 of the Act. In response the Appellant filed detailed submission, dated 03/12/2019, wherein on behalf of the Appellant it was contended as under:

(a) The Appellant had made payment to PEL for acquiring right to receive the principle along with interest from the debtors/borrowers on maturity. The consideration was paid for purchase of an asset being 'right to receive' and the same cannot be termed as interest paid to PEL.

(b) The payment made by the Appellant to PEL does not fall within the definition of term 'interest' as contained in Section 2(28A) of the Act. It was submitted that the aforesaid definition of 'interest' necessarily required payment in respect of 'money borrowed or debt incurred'. In the present case the relationship of borrowers and lenders did not exist between the Appellant and PEL. Therefore, payment made to PEL also

does not qualified as 'interest on securities' as defined in Section 2(28B) of the Act.

(c) Tax withholding provision were not attracted in the fact of the present case since no income had accrued to PEL as a result of transfer of NCDs/ICDs/Term Loans as the same were transferred to the Appellant at book value and the consideration paid to PEL was equal to the carrying value as standing in the books of accounts of PEL.

(d) PEL had already deducted tax at source in respect of interest accrued while recording the same in its books of accounts and that the same also been deposited in the accounts with the Government Treasury. In case the stand taken by the Assessing Officer was accepted, the same would amount to subjecting interest income which has accrued in the hands of the transferor to tax twice.

(e) PEL had accounted for the purchase price given by the Appellant to PEL in its books of accounts and had taken the same into consideration while offering to tax income for the relevant previous year. Therefore, on this count also, no part of tax required to deduct at source could be recovered from the Appellant in view of the provisions contained in Proviso of Section 201(1) of the Act.

4.3. The above submissions were taken into consideration by the Assessing Officer. However, the Assessing Officer did not find any merit in the same and concluded that Appellant had failed to discharge the obligation to deduct tax from the payments made to PEL in excess of the principle value amounting to INR.490,33,93,825/- in the terms of the provisions contained in

Section 194A/193 of the Act. Thus, treating the Appellant as as 'Assessee in Default', the Assessing Officer levied interest of INR.6,31,00,300/- on INR.49,03,39,382/- being the aggregate amount of tax that the Appellant was, according to the Assessing Officer, required to withhold in terms of Section 193/194A of the Act (at the rate of 10%) from the aforesaid excess payment of INR.4,90,33,93,825/-. Accordingly, the Assessing Officer raised aggregate demand of INR.55,34,39,682/- [INR.49,03,39,382/- plus INR.6,31,00,300/- upon the Appellant vide, order dated 10/02/2020, passed under Section 201(1)/201(1A) of the Act.

5. Being aggrieved, the Appellant challenged the above said order in appeal before CIT(A) and filed submission vide letter, dated 06/10/2021, (reproduced in paragraph 4 of the order impugned) wherein the Appellant reiterated the stand taken before the Assessing Officer. Further, the Appellant also filed online submission, dated 06/10/2021, alongwith additional evidence which was admitted by the CIT(A) after taking into consideration remand report, dated 17/01/2021, submitted by the Assessing Officer. After taking into consideration the submissions made by the Appellant as well as additional evidence, the CIT(A) agreed with the Assessing Officer and concluded that in the fact and circumstances of the present case there was no doubt that PEL had accounted for broken period interest as its income. Therefore, the contention of the Appellant that payment of INR.490,33,93,825/- made by the Appellant to PEL was not in the nature of interest income was could not be accepted. The CIT(A) observed that Hon'ble Bombay High Court had, in the case of American Express International Banking Corpn. Vs. CIT [2002] 125 Taxman 488/258 ITR 601 (Bom.), held that broken period interest should be treated as revenue expenditure. Therefore, amount paid by the Appellant towards accrued interest to PEL was

in the nature of income liable to deduction of tax at source under Section 194A/193 of the Act. However, the CIT(A) granted partial relief to the Appellant and accepted the contention of the Appellant that in case PEL had offered to tax the entire payment received from the Appellant towards accrued interest income, no recoveries could be made from the Appellant on account of failure of the Appellant to deduct tax from such payments in view of the provisions contained in Proviso to Section 201(1A) of the Act. The CIT(A) also observed that during the assessment proceedings the Appellant was not able to comply with the requirement of Rule 31ACB of the Income Tax Rules, 1962 [for short 'IT Rules]. However, taking note of the fact that the Appellant has now been able to upload Form No. 26A as per Rule 31ACB of IT Rules, the CIT(A) directed the Assessing Officer to verify compliance of Rule 31ACB of the IT Rules and to rework the demand/interest in accordance with Section 201(A)/201(1A) of the Act provided the Appellant was able to satisfy the Assessing Officer in relation to compliance of Rule 31ACB of the IT Rules. Thus, vide order dated 07/03/2024, the CIT(A) partly allowed the appeal preferred by the Appellant.

6. Not being satisfied with the above relief granted by the CIT(A), the Appellant has preferred the present appeal before the Tribunal on the grounds reproduced in paragraph 3.1 above.

7. The Learned Authorised Representative for the Appellant took us through the submissions of the Appellant (as recorded in the order impugned) and submitted that the CIT(A) had failed to appreciate that the judgment of Hon'ble Bombay High Court in the case of American Express International Banking Corpn. Vs. CIT [2002] 125 Taxman 488/258 ITR 601 (Bom.) was not applicable to the facts of the present case. The Appellant had made payment to PEL

were acquisition of 'right to receive' accrued interest and same did not fall within the ambit of the expression 'interest' /'interest on securities' as defined in Section 2(28A)/2(28B) of the Act. It was vehemently contended that the provisions contained in Section 193/194A of the Act were not attracted to the facts of the present case as the payments made by the Appellant to PEL did not have any element of income since the NCDs/ICDs/Term Loans were transferred at book value. Further, there is no lender/borrower relationship between the Appellant and PEL. The amount of interest accrued till the date of transfer had already suffers tax deduction at source on credit and thus, the same income cannot be made subjected to tax deduction at source again by the Appellant on payment. Further, in the absence of finding that the PEL has not directly paid taxes or discharged its tax liability, if any, the Appellant cannot be treated as an 'Assessee-in-Default' under Section 201 of the Act and hence the said order, dated 10/02/2020 passed under Section 201(1)/201(1A) of the Act be quashed.

8. Per contra the learned Departmental Representative extensively relied upon the order passed by the Assessing Officer and the CIT(A). It was submitted by the Learned Departmental Representative that PEL had recorded payment received from the Appellant as interest income and therefore, the same should have been subjected to deduction of tax at source by the Appellant in terms of Section 193/194A of the Act. The Appellant had failed to deduct tax as per the aforesaid. Hence, the Assessing Officer was correct in treating the Appellant as 'Assessee in Default' and levying interest under Section 201(1A) of the Act and raising a demand of INR.55,34,39,682/- under Section 201(1)/201(1A) of the Act. The Learned Departmental Representative further submitted that CIT(A) had already given directions to the

Assessing Officer to verify the compliance of Rule 31ACB of the IT Rules and re-compute the demands accordingly. Therefore, there was no prejudice caused to the Appellant by the order passed by the CIT(A).

9. We have considered the rival submissions and perused the material on record.

10. The case set up by the Assessing Officer and confirmed by the CIT(A) is that the Appellant had committed default in complying with the provision contained in Section 193/194A of the Act as the Appellant had failed to deduct tax at source from the payments made to PEL which were in excess of the principle value of the ICDs/NCDs/Term Loans recorded in the books of accounts of PEL. On perusal of Section 193 and 194A of the Act we find that any person responsible for paying any income by way of 'interest on securities' or 'interest other than interest on securities' is under obligation to deduct income tax from the same (a) at the time of credit of such income to the account of the payee, or (b) at the time of payment thereof, whichever is earlier. Thus, the obligation to withhold tax under Section 193/194A of the Act gets fastened on credit or payment, whichever is earlier. It is admitted position that in the present case the accrued interest had been recorded in the books of accounts of PEL. The contention of the Appellant that borrowers had deducted tax at source from such interest income *[at the time of credit of such income in the account of PEL in their respective books of accounts]* and had deposited the tax so deducted with the Government Treasury as per provisions of the Act has not been controverted by the Revenue. Therefore, in our view, in the present case, the provisions of Section 193/194A of the Act having already been triggered and complied with at the time of credit of interest income to the account of PEL in the

books of accounts of the borrowers *[i.e. the person responsible for making payment of such interest income at the relevant time],* would not again get triggered on payment of the same interest income by the Appellant to PEL. In case the contention of the Revenue is accepted it would amount to subjecting same interest income to deduction of tax at source once at the time of credit and then again at the time of payment. Whereas Section 193/194A of the Act provide for deduction of tax at source at the time of credit or payment, whichever is earlier. Therefore, we hold that, given the facts and circumstances of the present case, the provisions contained in Section 193/194A of the Act were not attracted and therefore, the question of Appellant committing default in complying with the same does not arise.

11. Further, we note that it is also admitted position that when the interest income had accrued to PEL, there existed lender-borrower relationship between PEL and the borrowers. Subsequently, the Appellant stepped into the shoes of PEL and as a result, lender-borrower relationship between the Appellant and the borrowers came into existence. The borrowers continued to be under contractual obligation to make payment of interest/accrued interest while the Appellant acquired the right to receive the same. There is no dispute as to the fact that no lender-borrower relationship existed between the Appellant and PEL at any point in time. Therefore, in absence of any statutory/contractual obligation on the part of Appellant to discharge the borrowers obligation to make payment towards interest/accrued interest to PEL, the Appellant cannot be regarding as person responsible for paying income by way of interest/interest on securities to PEL in terms of Section 194A/193 of the Act.

11.1. In the case of **State Bank of India Vs. DCIT [2024] 163**

taxmann.com 266 (Mum. Trib.), the Mumbai Bench of Tribunal had accepted the contention of the assessee that to trigger the provisions contained in Section 2(28A) of the Act provisions the existence of 'moneys borrowed or debt incurred' is necessary. In absence of 'moneys borrowed or debt incurred' the payment made by the assessee in that case could not have been subjected to deduction of tax at source in terms of Section 194A of the Act. Further, the nature of income in the hands of the recipient and the nature of expenditure of the said sum in the hands of the payer need not be the same. The relevant extract of the aforesaid decision of the Tribunal reads as under:

"16. In order to decide whether interest retained by the NBFCs on the pool of assets allotted to the assessee falls within the category of "interest" for the purpose of section 194A of the Act, it is firstly pertinent to note the relevant provisions of the Act. As per section 194A of the Act, any person, not being an individual or a HUF, who is responsible for paying to a resident any income by way of interest, shall at the time of credit of such income to the account of payee deduct income tax thereon at the rates in force. The term "interest" has been defined under section 2(28A) of the Act as under-

> *2(28A) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;"*

17. Therefore, from the plain reading of the provisions of section 2(28A) of the Act, it is evident that interest means interest payable in respect of any money borrowed or debt incurred. As per the Revenue, since 90% of the pool of assets was purchased by the assessee, therefore the total interest pertaining to the assessee's share first accrued to the assessee and thereafter the same, by virtue of the tripartite agreement, is allowed by the assessee to be retained back by the originating NBFCs. Therefore, in light of the provisions of Sectin 194A read with Section 2(28A) of the Act, it needs to be examined whether the part interest allowed to be retained back with the originating NBFC by the assessee. In the

present case, it has been disputed that the assessee purchased a pool of loans from the NBFCs by way of Direct Assignment. It is also the claim of the Revenue that by purchasing the loan, the assessee, to the extent of its share, i.e.90%, has stepped into the shoes of the NVFCs, and if there is a default on a particular loan (for the 90% pool assigned to the assessee) the entire loss will come to the assessee. In the present case, it also cannot be disputed that the borrowers have taken the loans from the NBFCs, which were subsequently purchased by the assessee by way of Direct Assignment, and on these loans, the borrowers are paying interest, which is getting deposited in "Collection and Payee Account', which is the Escrow Account operated by the Assignee Representative and ultimately this interest is distributed amongst the NBFC and the assessee as per the tripartite agreement. Therefore, from the aforesaid undisputed fact, it is sufficiently evident that the assessee has only purchased a part of loan by making the upfront payment and allowing the originating NBFCs to retain part interest on such loan paid by the borrowers. In the present case, there is no material available on record to show that the assessee borrowed any funds or incurred any debt from the NBFC. Such being the facts of the present case, the question of payment or crediting of interest by the assessee in favour of NBFC does not arise. Therefore, in the absence of any funds borrowed or debt incurred by the assessee from the NBFC, we are of the considered view that the part interest allowed to be retained back with the originating NBFC cannot be said to be interest within the meaning of section 2(28A) of the Act. Further, it is pertinent to note that under section 194A of the Act, the payment must be in the nature of interest in order to make the payer responsible for deducting tax a the time of payment or credit of such income. Therefore, though the payment by the borrower of the loan, in the present case, is in the nature of interest, however, when the same is allowed to be retained with the originating NBFC by the assessee under the tripartite agreement, the nature of the same is converted to a consideration for the purchase of 90% of the pool of assets. The nature of income in the hands of the recipient and the nature of expenditure of said sum by that person may not always be the same. Therefore, it is no necessary that what is received as interest is also interest when paid, particularly in the absence of any money borrowed or debt incurred. Accordingly, we are of the considered view that there is no obligation on the assessee to deduct tax at source under

section 194A of the Act. Thus, levy of tax under section 201(1) and levy of interest under section 201(1A) of the Act for non-deduction of TDS under section 194A of the Act is not sustainable. Accordingly, grounds no.1, 2, and 4 raised in Revenue's appeal are dismissed."

(Emphasis Supplied)

11.2. To the same effect is the decision of Mumbai Bench of the Tribunal in the case of **Idea Cellular Ltd. Vs. ADIT [2015] 172 TTJ 540 (Mum. Trib)** wherein it was held that as under:

"9. Now, the issue before us is, whether such a fees paid to the arranger can be termed as "interest" within the meaning of section 2(28A) or "fees for technical services for service" within the meaning of section 9(1)(vii).

10. The definition of "interest" u/s 2(28A) reads as under:-

> *"interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;'*

From the above definition, it can be inferred that the term "interest" covers, firstly, the interest payable in any manner in respect of any money borrowed or debt incurred and, secondly, such interest payable includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilised. In the main limb of the definition, it is amply clear that interest should be in respect of the money borrowed or debt incurred. In other words, the interest is payable by the borrower who had borrowed the money from the lender or the debt has been incurred by him in favour of the lender who has given the money. The Arranger is not the lender as the person who has provided the money and any fee paid to him is not in respect of the borrowing, because no debt has been incurred by the assessee in favour of the Arranger vis-a-vis the money borrowed. He is merely a facilitator who brings lender and borrower together for facilitating the loan/credit facility. The second limb of the definition is an inclusive definition whereby interest encompasses to include service fee

or other charge and such fee is in respect of the money borrower or any debt incurred or, for unutilised credit facility. Here also, such fee or charge is in respect of money borrowed only i.e. given by the lender to the borrower. The service fee or other charge does not bring within its ambit any third party or intermediary who has not given any money. The fundamental proposition permeating between various kinds of payments which has been termed as "interest" in the section is that, these payments are paid/payable to the lender either for giving loan or for giving the credit facility. Nowhere the definition suggests that payment of interest includes some kind of fee paid to a third party who has not given any loan or any credit facility. The ld. CIT(A) held that Arranger fee paid is nothing but a part of debt or loan taken by the assessee and utilised thereof and, therefore, it is interest payable within the meaning of section 2(28A). In our opinion, such an interpretation cannot be upheld because, it is not a part of debt or loan payable to the lender but it has been paid for facilitating the loan for the borrower from the lender. The element of relationship between the borrower and lender is a key factor to bring the payment within the ambit of definition of interest u/s 2(28A). The Arranger fee may be inextricably linked with the loan or utilisation or loan facility but it is not a part of interest payable in respect of money borrowed or debt incurred, because the relationship of a borrower or a lender is missing. Though, the fees of an Arranger may depend upon the quantum of loan or loan facility arranged but to be included within the meaning of term 'interest', it has to be directly in respect of money borrowed, i.e. directly flowing from the consideration paid for the use of money borrowed. It is a kind of a compensation paid by the borrower to the lender. Thus, Arranger is only a intermediary/third party and accordingly, any fee paid as Arranger fee cannot be termed as "interest" under both the limbs of the definition; given in section 2(28A). Therefore, the assessee was not liable to deduct tax for such payment, as it does not fall within the ambit of interest."

(Emphasis Supplied)

11.3. Accordingly, we accept the contention of the Appellant that in absence of any moneys borrowed or debt incurred, payments made by the Appellant to PEL in excess of the principle value of the ICDs/NCDs/Term Loans recorded in the books of accounts of

PEL aggregating to INR.490,33,93,825/- cannot be regarded as 'interest'/'interest on securities' as defined in Section 2(28A)/2(28B) of the Act.

12. We note that while rejecting Appellants contention, the CIT(A) had relied upon Hon'ble Jurisdictional Bombay High Court in the case of **American Express International Banking Corpn. v. CIT [2002] 125 Taxman 488/258 ITR 601 (Bom)** wherein it was held that broken-period-interest should be treated as revenue expenditure and not capital expenditure in the hands of the buyer of the securities. On perusal of the aforesaid judgment we find that the issue raised before the Hon'ble Bombay High Court pertained to the nature of payment made by the buyer of securities on account of broken-period-interest and not the treatment of such payment in the hands of the seller receiving the same. In the present case the issue raised for consideration pertains to the treatment of receipt in the hands of seller and the obligation of the payer to withhold tax from the same in term of Section 193/194A of the Act. Therefore, in our view, the aforesaid judgment of Hon'ble Bombay High Court in the case of American Express International Banking Corpn (Supra) does not apply to the facts of the present case. Further, as held by the Tribunal in the case of State Bank of India (Supra), the nature of income in the hands of the recipient and the nature of expenditure of the said sum in the hands of the payer need not be the same.

13. Accordingly, In view of the above, we overturn the order dated 07/03/2024 passed by CIT(A) and delete the demand of INR.55,34,39,682/- raised upon the Appellant vide order dated 10/02/2020 passed under Section 201(1)/201(1A) of the Act. Ground No.II and IV raised by the Appellant are allowed while all the other Grounds raised by the Appellant are dismissed as having

been rendered infructuous.

ITA No.2348/Mum/2024 (Assessment Year 2018-2019)
ITA No.2347/Mum/2024 (Assessment Year 2019-2020)
ITA No.2345/Mum/2024 (Assessment Year 2020-2021)

14. Now we would take up appeals for the Assessment Years 2018-19, 2019-20 & 2020-21 arising from three separate orders, each dated 07/03/2024, passed by the Learned CIT(A).

15. During the course of hearing both the sides had agreed that the finding/adjudication in relation to appeal for the Assessment Year 2017-2018 above shall apply mutatis mutandis to corresponding grounds/issues raised in the aforesaid three appeals as there was no difference in the facts and circumstances of the case.

16. We have perused the three orders, each dated 10/02/2020, passed under Section 201(1)/201(1A) of the Act whereby, in identical facts and circumstances, demand of INR.5,10,63,188/- INR.5,09,79,788/- and INR.12,68,16,610/- was raised for the Assessment Year 2018-2019, 2019-2020 and 2020-2021, respectively.

17. Accordingly, in view of the paragraph 10 to 13 above, taking into account the identical facts & circumstances prevailing during the relevant previous years and on account of parity of reasoning, we delete the demand of INR.5,10,63,188/- INR.5,09,79,788/- and INR.12,68,16,610/- for the Assessment Year 2018-2019, 2019-2020 and 2020-2021, respectively, raised upon the Appellant vide three separate orders, each dated 10/02/2020, passed under Section 201(1)/201(1A) of the Act. Thus, Ground No.II and IV raised by the Appellant in the respective appeals are allowed while all the other Grounds raised by the Appellant are dismissed as having been rendered infructuous.

18. Accordingly, in terms of paragraph 13 & 17 above, all the four appeals preferred by the Assessee are allowed.

Order pronounced on 25.11.2024.

Sd/-	***Sd/-***
(Amarjit Singh)	**(Rahul Chaudhary)**
Accountant Member	**Judicial Member**

मुंबई Mumbai; दिनांक Dated 25.11.2024
Milan, LDC

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to</u> :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai