IN THE INCOME TAX APPELLATE TRIBUNAL

"F" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No.6190/MUM/2024
(Assessment Year : 2018-19)

Shri Trust T 2018,
Universal Insurance Building,
Ground Floor, Sir P.M. Road, Fort,
Mumbai - 400001 ..... Appellant
PAN : AAUTS1169E

v/s

ITO (TDS) - 2(2)(1)
MTNL Telephone Exchange Building,
Cumballa Hills, Pedder Road,
Mumbai - 400026 ..... Respondent

Assessee by : Shri Gunjan Kakkad
Revenue by : Shri Vijaykumar G Subramanyam, Sr.DR

Date of Hearing – 20/02/2025	Date of Order - 25/04/2025

O R D E R

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 12.05.2023, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, ["*learned CIT(A)*"], which in turn arose from the order passed under section 201(1)/201(1A) of the Act, for the assessment year 2018-19.

2. The present appeal is delayed by 48 days. Along with the appeal, the assessee has filed an affidavit seeking condonation of delay in filing the appeal, stating as follows: -

"2. That the CIT(A) order dated 12 May 2023 passed under section 250 of the Income Tax Act ('the Act') was not received by the Appellant on the email address registered on the e-filing portal and the said order was also not physically delivered to the Appellant.

3. That the Appellant only came to know about this order on. 12 August 2024 when it was browsing through the income-tax portal for some routine work and filed an appeal before the Hon'ble Income Tax Appellate Tribunal (ITAT") in Form 36 on 27 November 2024.

4. That once the Appellant became cognizant of the order being passed. the Appellant made its best effort to look into the other email addresses as specified by CBDT in the Faceless Appeal Scheme. 2021 for valid delivery of order. however, the order could not be traced in those email ids. The Appellant also went through its postal records to check if the order was delivered physically. Further, the trustee of the Appellant manages 300+ securitization trusts which have the same nature of dispute pursuant to the survey that was carried out on
IDBI. The trustee of the Appellant is furnishing the details and filing submissions for these trusts ever since in one proceeding or another. The Appellant was verifying its email addresses thoroughly and in the process, it took some time owing to the number of appellate proceedings the Trustee is participating in. The Appellant states that till date. the order of the CIT(A) is not yet communicated as is required under provisions of section 250(7) of the Income-tax Act. 1961.

5. That the Appellant is aware the appeal before the Hon'ble ITAT is required to be filed within 60 days of the date of receipt of the order. At the outset the Appellant may respectfully mention that there has been no delay in filing the appeal as the order cannot be said to have communicated to the Appellant as required under the law.

6. Having said this, if 12 August 2024 (the date on which the Appellant became cognizant of the order). is considered as the date of communication then accordingly, the due date to file the appeal should be 11 October 2024. There is a delay of 48 days (from the date on which the Appellant became cognizant of the order) in filing the appeal before the Hon'ble ITAT due to the reasons mentioned above.

7. That this declaration is true and correct and conceals nothing and that no part of it is false.

8. That there is no intention to jeopardize the interest of the revenue by delaying the filing of appeal."

3. Considering the submissions of the assessee, we are of the considered view that there was sufficient cause for not filing the appeal within the prescribed limitation period. Accordingly, we condone the delay in filing the appeal by the assessee and proceed to decide the appeal on merits.

4. In the appeal, the assessee has raised the following grounds: -

"The following grounds of appeal are distinct and separate and without prejudice to each other.

Ground No 1: Invalid delivery of CIT(A) order.

On the facts and circumstances of the case and in law, the Commissioner of Income-tax (Appeals) ['learned CIT(A)'| from the National Faceless Appeal Centre erred in not communicating the order to the Appellant on registered email address of the Appellant and the order was only uploaded on the c-portal of department.

Ground No 2: Appellant being treated as 'assessee in default'

The learned CIT(A) erred on facts and in law in dismissing the appeal filed against the order passed under section 201 / 201(1A) ('the order') of the Income-tax, Act 1961 ('the Act) of the Income-tax officer (IDS) - 2(2)(1) ['learned AO'| and by treating the Appellant as 'assessee in default'.*

Ground No 3: Non-applicability of section 194LBC of the Act

The learned CIT(A) erred on facts and in law in upholding the order of the learned AO that tax was required to be deducted at source under section 194LBC of the Act on the amount of excess interest spread paid by the Appellant to the originator.

Without prejudice to the above, the learned CIT(A) ought to have held that, since the payee had furnished its income-tax return ('TTR') under section 139 of the Act and had taken into account such sum for computing income in its I'TR and had also paid the tax due on the income declared by them in such ITR, the Appellant could not be regarded as an assessee in default.

Ground No 3: Levy of interest under section 201(1A) of the Act

The CIT(A) erred on facts and in law in levying interest under section 201(1A) of the Act."

5. The solitary grievance of the assessee is against treating the assessee as assessee-in-default for non-deduction of TDS under section 194LBC of the Act on the amount of Excess Interest Spread *("EIS")* paid by the assessee.

6. The brief facts pertaining to this issue, as emanating from the record, are: The assessee is a Securitisation Trust, which is acting and controlling under the Trusteeship of M/s. IDBI Trusteeship Services Limited. The assessee was created to secure the pool of loan receivables from Sundaram Finance Ltd. (hereinafter referred to as "*the originator*"). During the post survey proceedings and enquiry in the case of M/s. Sansar Trust, a Securitization Trust Group, managed and controlled by M/s. IDBI Trusteeship Ltd., it was noticed that the assessee has paid Rs.10,23,90,392/- under the head "*EIS*" to the originator without deducting TDS thereon under section 194LBC of the Act. It was further noticed that the assessee deducts TDS on the payment of yield to the Pass-through Certificate (*"PTC"*) holders under section 194LBC of the Act, but no TDS was deducted on the payment of EIS to the originator. On the basis that EIS is an income paid by the assessee to the originator, the Assessing Officer – TDS (*"AO-TDS"*) vide order dated 08.11.2019 passed under section 201(1)/201(1A) of the Act held that TDS was required to be deducted under section 194LBC of the Act on the amount of EIS paid to the originator. After considering the submissions of the assessee in response to the show cause notice, the AO-TDS held that the assessee has defaulted under section 201(1) and section 201(1A) of the Act by not deducting the TDS under section 194LBC of the Act while making the payment of EIS to the originator. Accordingly, the AO-TDS treated the assessee as assessee-in-default in

respect of non-deduction of TDS and computed the total liability under section 201(1) and section 201(1A) of the Act at Rs.3,76,65,721/-.

7. The learned CIT(A), vide impugned order, dismissed the appeal filed by the assessee and upheld the tax liability and interest levied under section 201(1) and section 201(1A) of the Act, by observing as follows: -

> *"6.0. Grounds of appeal no. 1 and the statement of facts attached to this ground*
> *are factual and it will be dealt automatically while discussing the other grounds.*
> *However, the assessee has explained the EIS in this statement of facts that EIS is the difference between the yield on the portfolio acquired from the originator and returns payable to the investor. So, the explanation given by the assessee itself indicates that EIS is an income in the nature of yield on the portfolio.*
>
> *7.1 In grounds of appeal no, 2, the assessee itself has stated that Section 194LBC of the casts an obligation on the ST (the assessee) to deduct tax from income payable to an investor in respect of investment in the ST. At the same time the appellant also says that the EIS paid by the appellant to the originator is not in respect of investment made in the ST. The stand of the appellant appears to be contradictory. He has not explained that how EIS is not an income in respect of investment made in the ST. The Assessing officer has discussed in detail the process of securitization at page 1 to 3 of the order u/s 201(1)/201(1A). The conclusive portion of the discussion is reproduced below:*
>
> > *Originator receives following receipts in whole arrangement-*
> >
> > ** Principal amount outstanding in respect of pool of assets on selling of same to the SPV. However, in certain cases the amount received by the Originator can be less than the total principal outstanding also.*
> >
> > ** Servicer fee for providing services for collection of installments, other receipts*
> >
> > ** As original loans are at higher rates (15-20%) and the divisible securities /PTCs are at lower rates (generally 6-9%) the difference in rate of interest is paid back to the Originator in the name of EIS (Excess interest spread) by the SPV.*
> >
> > *Here, in the case of assessee Trust, it deducts TDS on the payment of yield to the PTC holder's u/s 194LBC of the Act. But it is seen that TDS is not deducted on the payment of EIS to the Originator.*
>
> *7.2. The appellant had submitted a response to the show cause notice before the AO. The response has been annexed with the Order u/s 201(1)/ 201(1A)*

as annexure Il at para 4. From examination of para 7 and para 8 of the reply of the appellant before the AO it is found that in any case the EIS is the income of the originator and the originator is also an investor only as providing of liquidity support in the nature credit enhancement by way of FD, Bank Guarantee etc. is an investment for the purpose of earning of income. So, any income accruing to the originator is liable for withholding of taxes.

7.3 *But it is seen that TDS is not deducted on the payment of EIS to the originator. He has further explained the liability to deduct tax u/s 194 LBC in 3.1 of the order. He has also discussed the chargeability of income accruing or being paid to the investor in para 3.2 of his order.*

7.4. In ground no. 2, the appellant has also stated that the EIS paid by the appellant to the originator is not in respect of the investment made in ST (Securitization Trust). This stand is not correct. The Assessing officer in the diagram at page 2 of the order has clearly shown that EIS received by the originator from the appellant is an investment. If the originator provided liquidity support in the nature of credit enhancement by way of FD, bank guarantee, etc. the transaction is certainly an investment and EIS (Excess Interest Spread) is certainly an income/interest. From perusal of RBI Guidelines on Securitization of Standard Assets, it is found that financial support by the originator is investment in nature. Specific mention can be made to para 19.1, 19.2, and 7.13 of the guidelines. It is evident in these paras that the originator purchases securities which are at least of " investment grade". So, it has to be concluded that EIS which is the resultant of investment in these securities are liable for withholding of taxes. Without prejudice to the stand that EIS paid is not in respect of investment made in ST, the appellant has further argued that the EIS received by the originator from it was duly offered to tax and appropriate tax was paid on the said income. Based on the provisions of section 201(1) of the Act the appellant could not be considered as an assessee in default for the amount of tax directly paid by the originator. A letter was given to the appellant (as mentioned above at para 4) to submit evidence that the deductee has directly paid the tax on income so the deductor, the appellant should not be treated as in default for a liability which has already been discharged, But the appellant did not submit the evidence after two requisitions. Last letter was sent on 02.05.2023 for compliance by 10.05.2023. But there has been no compliance. The appellant has filed on 13.10.2022 a copy of acknowledgement of ITR 6 of Sundaram Finance Limited. But this in itself cannot be treated as an evidence that tax has been paid by the originator on EIS. Under these facts and circumstances I am of the opinion that the appellant was liable for deduction of tax at source under section 194LBC and the appellant Securitization Trust has rightly been treated as on assesses in default."

Being aggrieved, the assessee is in appeal before us.

8. During the hearing, the learned Authorized Representative ("*learned AR*") submitted that similar issue has been decided by the Tribunal in favour of the tax payer, wherein it has been held that the Securitization Trust is not

required to deduct TDS under section 194LBC of the Act on the EIS paid to the originator. On the other hand, the learned Departmental Representative ("*learned DR*") vehemently relied upon the order passed by the lower authorities.

9. We have considered the submissions of both sides and perused the material available on record. In the present case, the assessee is a Securitisation Trust, which is acting and controlling under the Trusteeship of M/s. IDBI Trusteeship Services Limited. The assessee was created to secure the pool of loan receivables from the originator, i.e., Sundaram Finance Ltd. As a Securitisation Trust, the main function of the assessee was to raise money to acquire the loan portfolio of the originator. The assessee raised the funds by issuing Series A PTC carrying a fixed yield of 5.75% per annum, which were subscribed by Sundaram Finance Ltd., inter-alia, to meet the Minimum Retention Requirement ("*MRR*") as per the RBI Guidelines, and by Axis Bank Ltd. As regards the payment of yield to the PTC holders, there is no dispute that the assessee deducted TDS under section 194LBC of the Act. However, as regards the EIS, i.e. surplus over and above the payment of fixed yield, paid to the originator, the assessee did not deduct the TDS under section 194LBC of the Act. Accordingly, the AO-TDS treated the assessee as assessee-in-default and computed the tax and interest liability under section 201(1) and section 201(1A) of the Act.

10. We find that while deciding a similar issue in the case of a Securitisation Trust acting and controlling under the trusteeship of M/s. IDBI Trusteeship Services Ltd., the Co-ordinate Bench of the Tribunal in Venus Trust March 2015

vs. ITO, in ITA No.2387/Mum/2022, for the assessment year 2018-19, vide order dated 09.09.2024, held that for the applicability of provisions of section 194LBC of the Act, two conditions are required to be fulfilled, i.e., the originator should be an investor as per the provisions of section 194LBC r.w. section 115TCA of the Act, and secondly, the income in the hands of the originator should be in respect of the investment in the Securitisation Trust. The Co-ordinate Bench held that even if the originator is considered to be an investor, the payment of EIS to the originator cannot be said to be pursuant to an investment in the Securitisation Trust or return of investment so made, as the said payment was merely surplus which was shared with the originator as a reward for its effort for creating an assignable pool of loan receivable. Accordingly, the Co-ordinate Bench held that the liability to deduct TDS under section 194LBC of the Act is not applicable on payment of EIS to the originator. The relevant findings of the Co-ordinate Bench, in the aforesaid decision, are reproduced as follows: -

> *"17. Thus applying these observations to the facts of the present case it is observed that in order to fulfil the MRR requirements the originator subscribed to 6,31,09,012 Series A PCs of face value Rs. 1 each issued by the Assessee Trust. Thus the originator is as an 'investor as per the provisions in section 194LBC r/w. section 115TCA of the Act. The aforesaid sections come into play only in situations where the originator has subscribed to the PTs of the securitization trust. Hence, the first condition laid down by Section 194 LBC stands fulfilled. The second condition which is required to be fulfilled under Section 194LBC of the Act is that the income in the hands of the originator should be in respect of investment in the securitization trust. As observed by us hereinabove, the cash flow received was to be utilized in the manner provided in the waterfall mechanism of the trustee, the EIS is the residual amount that flows to the originator and is not pursuant to any investment in the securitization trust or return of investment so made. Thus even when the originator is as an investor, there still is no requirement for tax was to be deducted u/s. 194LBC on the EIS as the said payment was not in respect of investment made by the originator in the PTCs issued by the assessee. The surplus here especially represents a reward earned by the originator for its effort of creating an assignable pool of loan receivables. The MRR requirement*

was introduced by RBI for the first time in the year 2012 and prior to such there was no requirement for the originator to comply with MRR and even for such bills prior to 2012 EIS was paid to the originator. This further corroborates the position that EIS cannot be regarded as income in respect of investment. Hence, the second condition is not fulfilled in the case herein; accordingly we hold that the TDS liability u/s.194LBC is not applicable on EIS. The same view of has been held by this Hon'ble tribunal in the cases of M/s. Vivriti Cibus v. Income Tax Officer (TDS) - 2 (3) (3) Mumbai, ITAT No. 3171/Mum/2022, SME Pool Series V August 2016 v. Income Tax Officer (TDS) - 2 (2) (1) Mumbai, ITAT No. 341/Mum/2023 & 342/Mum/2023and Income Tax Officer (TDS) - 2(2)(4) Mumbai v. Syamantaka IFMR Capital 2017, ITAT No. 2640/Mum/2023. The relevant portions of these judgements have been produced hereunder for better understanding the issue in hand. In M/s. Vivriti Cibus v. Income Tax Officer (TDS)-2(3) (3) Mumbai, ITAT No. 3171/Mum/2022 this Hon'ble tribunal has held as follows-:

> *"17. Ergo, once the originator, (AMPL) is not holding any PTC/ SDI, it cannot be regarded as 'investor' as per the terms defined in the aforesaid provisions elaborated above. It is only in a situation where the originator has subscribed to the PTs of the securitization trust and then only it can be regarded as an investor. In case where minimum retention requirement commitment has met via any other permissible alternator, the originator does not have hold in instrument in the securitization trust and therefore, cannot be reckoned as investor. Once the originator has not subscribed in PTCs, but the MRR is maintained via cash collateral and in the form of collateralizing of excess receivables, then the first condition provided in Section 194LBC is not fulfilled and therefore, in our opinion there cannot be any obligation to deduct tax in terms of said Section.*
>
> *18. The other condition as provided in Section 194LBC which is required to be fulfilled is that the income in the hands of AMPL should be in respect of investment in the securitization trust. As observed by us hereinabove, the cash flow received was to be utilized in the manner provided in the water flow mechanism of the trustee, the Excess Interest Spread (EIS) is the residual amount that flows to the originator and is not pursuant to any investment in the securitization trust or return of investment so made. Even assuming AMPL is to be treated as an investor, then also no tax was required to be deducted u/s.194LBC on the EIS as the said payment was not in respect of investment made by AMPL in the PTCs issued by the assessee. The surplus here especially represents a reward earned by AMPL that its effort of creating pool of loan receivables which is capable of assigning. The MRR requirement was introduced by RBI for the first time in the year 2012 and prior to such there was no requirement for the originator to comply with MRR and even for such bills prior to 2012 EIS was paid to the originator. This further corroborates that EIS cannot be regarded as income in respect of investment. Thus, here in this case second condition is also not fulfilled and accordingly we hold that the TDS liability u/s.194LBC is not applicable on EIS.*
>
> *19. Our aforesaid finding is based on interpretation of the language provided in the statute where the liability to deduct TDS has been provided, only, where any income is payable to an investor in respect of investment in secularisation trust. The investor' has been defined to meon a person who is a holder of any securitised dohe instrument or securities or security receipts issued by the securitization trust. Once AMPL is not an investor and the conditions mentioned in Section 194LBC has not met, then the liability to deduct TDS does not trigger".*

18. In SME Pool Series V August 2016 v. Income Tax Officer (TDS) - 2 (2) (1) Mumbai, ITAT No. 341/Mum/2023 & 342/Mum/2023 this Hon'ble Tribunal held that-:

"12. the issue that arises for consideration in the present appeal is whether the Appellant, being a securitization trust/special purpose distinct entity, was under obligation to withhold tax in terms of section 194LBC of the Act in respect of EIS paid by the Appellant to the Originator.

13. On perusal of the order of the Tribunal in the case of Vivriti Cibus (supra), we find that identical issue stand decided in favour of the Appellant and against the Revenue. In that case, it was held by the ITA No.341//Mum/2023 (Assessment Year 2017-18) Tribunal that the provisions of Section 194LBC of the Act are not attracted in case of payment of EIS to the seller/originator by a securitization trust as the seller/originator did not hold any investment in the securitization trust. Further, EIS received was not in the nature of income from investment and was in the nature of reward earned by the seller/originator on account of creating a pool of loan receivable which was capable of assignment. We concur with the aforesaid decision of the Tribunal in view of the following.

14. Section 115TCA of the Act was inserted by Finance Act, 2016 with effect from 01/04/2017 provides that any income of an investor of a securitisation trust out of investment made in such securitisation trust shall be chargeable to income tax. Section 194LBC of the Act casts an obligation to withhold tax on the person responsible for making such payment.

21. During the course of hearing reliance was placed by the Ld. Departmental Representative of the revised guidelines of securitization transaction dated 21st August, 2012 issued by the Reserve Bank of India (RBI/2012-13/17 DNBS PD No. 301/3.10.01/2012/13 dtd. 21st August, 2012 (for short 'MRR Guidelines'). A perusal of the MRR Guidelines makes it clear that the requirement of Minimum Retention Requirement (MRR) was introduced for the originator/seller in 2012. The MRR requirement was introduced to ensure that the originators continue to have staked in the securitized assets so that proper due diligence is carried out in respect of the loans securitized. Reserve Bank of India permitted the originators to fulfil MRR by way of an investment in the securities special purpose distinct entity/ ITA No.341//Mum/2023 (Assessment Year 2017-18)securitization trust; or the providing required credit enhancement or by providing cash collaterals, balance sheet support etc. It has been urged that in the case before us the Appellant has made the MRR commitment by other permissible alternatives and had not subscribed to the PTs issued by the securitization trust/appellant. The Revenue has not disputed the aforesaid position. On the other hand, it has been contended by the Revenue that the Assignment Deed constitutes securitized debt instrument. On perusal of the MRR Guidelines, we are of the view that in cases where the MRR commitment is met via any other permissible alternative, the originator cannot be regarded as an 'Investor' since the Originator does not hold any investment the special purpose distinct vehicle/securitization trust. In our view, an originator can also be 'Investor' provided such originator makes investment in the special purpose distinct vehicle/securitization Trust by subscribing to PTC or other securities/instruments. However, it is admitted that in the present case the Originator has neither subscribed to PCs nor had made any other investment. MRR has been maintained via cash collateral and in the form of collateralising of excess receivables. Therefore, the decision of the Tribunal in the case of VivritiCibus (supra) rendered in identical facts and circumstances is applicable to the facts and circumstances of the present case...."

19. In Income Tax Officer (TDS) - 2 (2) (4) Mumbai v. Syamantaka IFMR Capital 2017, ITAT No. 2640/Mum/2023 this Hon'ble Tribunal held that-:

"11... The entire securitization process is subject to and is governed by the guidelines issued by the RBI, viz. (a) Guidelines on Securitization of Standard

Assets dated 01.02.2006 and (b) Revision to Guidelines on Securitization Transactions dated 21.08.2012. It is a matter of record that as per the RBI guidelines, the PTC holders (investors) are entitled to committed returns arising out of loan portfolio and any surplus is paid to the Originator as Excess Interest Spread (EIS). The CIT (A) after taking note of the provisions of Section 115ICA of the Act has come to the conclusion that the assessee In this case cannot be treated as an investor within the meaning of clause (a) of Explanation to Section 115TCA of the Act, in as much as an investor in such a case, has to be a holder of any securitized debt instrument or securities or security receipts. A distinction has to be drawn between the PTC holders making a specific investment in the securitized trust in order to get committed returns and the payment made and the Originator, which is entitled to the residual amount collected by the securitization trust after discharging the statutory and contractual obligations towards the investors. There may be a cose where in order to comply with the Minimum Retention Requirement (MRR) as per the applicable guidelines, the Originator may also be a holder of PTCs. There may also be cases where the commitment towards MRR is made vide other permissible modes other than in the capacity as an investor holding the PCs. In the later case, the Originator cannot be treated at par with an investor. The First Appellate Authority has noticed, and in our view rightly so, that two conditions have to be satisfied before the applicability of Section 194LBC of the Act and the consequent obligation for deduction of tax at source, viz. (i) the entity to whom the payment is made is an investor of the securitization trust and (ii) the payment is towards income accruing or arising out of the investment made in securitization trust. In our view neither of these conditions are satisfied in the present case. The First Appellate Authority after perusal of the Assignment Deed dated 28.12.2017 has found on facts that the Originator in this case is neither a holder of any securitized debt instrument, securities or security receipts and thus, cannot be regarded as an investor."

20. Thus in light of the above judicial pronouncements and the language provided in the statute which clearly provides that the liability to deduct TDS arises only where any income is payable to an investor in respect of the investor's investment in a secularisation trust. The 'investor' has been defined to mean a person who is a holder of any securitised debt instrument or securities or security receipts issued by the securitization trust. Once it seen that the Assessee is an investor but that the income in the hands of the originator is not in respect of investment in the securitization trust and that the EIS is the residual amount that flows to the originator and is not pursuant to any investment in the securitization trust or return of investment so made, therefore the twin conditions mentioned in Section 194LBC have not been met and hence the liability to deduct TDS does not trigger. Before us without prejudice it has been stated that since the payee has discharged its liability to deduct tax in respect of EIS, then assessee cannot be regarded as 'assessee in default. Thus, Grounds 1 and 2 of the Assessee are allowed. Since, we have already held that there is no liability to deduct TDS in the present case, then whether or not form 26A was filed before the AO, or has been filed before us due to the reasons as stated above is purely academic and hence Grounds 3 and 4 of the Assessee are allowed. Therefore, the entire payment and interest levied by AO is deleted and the appeal of the assessee is allowed."

11. We find that similar findings have been rendered by various other benches of the Tribunal on a similar issue, as noted in the aforesaid decision.

12. During the hearing, the learned DR did not point out any decision of the higher judicial forum contrary to the findings of the Co-ordinate Bench rendered in the aforesaid decisions. In the present case, we find that the payment of EIS by the assessee was not in respect of investment by the originator towards meeting the MRR, and the same was merely a distribution of surplus as per the waterfall mechanism. Accordingly, respectfully following the decisions of the Co-ordinate Bench of the Tribunal as noted above, we are of the considered view that the assessee, being a Securitisation Trust, was not required to deduct TDS under section 194LBC of the Act on the payment of EIS to the originator. As a result, the tax liability and interest levied under section 201(1) and 201(1A) of the Act by AO-TDS are deleted. Accordingly, Grounds No.2 to 3 raised in assessee's appeal are allowed.

13. In the view of our aforesaid findings, Ground No.1 is rendered academic and therefore, is left open.

14. In the result, the appeal by the assessee is allowed.

Order pronounced in the open Court on 25/04/2025

Sd/-	**Sd/-**
GIRISH AGRAWAL	**SANDEEP SINGH KARHAIL**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

MUMBAI, DATED: 25/04/2025
Prabhat

Copy of the order forwarded to:

(1) The Assessee;

(2) The Revenue;

(3) The PCIT / CIT (Judicial);

(4) The DR, ITAT, Mumbai; and

(5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai