

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1235/Del/2023
(Assessment Year: 2010-11)**

Saan Global, C-56/18, Institutional area, Sector-62, Noida-201309 (UP)	Vs.	ITO(TDS), Noida
(Appellant)		(Respondent)
PAN: AAHFS7473A		

Assessee by :	None
Revenue by:	Shri Sahil Kumar Bansal, Sr. DR
Date of Hearing	03/04/2025
Date of pronouncement	03/04/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1235/Del/2023 for AY 2010-11, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2022-23/1049470785(1) dated 06.02.2023 against the order of assessment passed u/s 201(1)/ 201(1A) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.10.2021 by the Assessing Officer, ITO, TDS, Noida (hereinafter referred to as 'Id. AO').
2. At the outset, the appeal is delayed by 20 days. Considering the reasons adduced in the condonation petition, in the interest of substantial justice, we are inclined to condone the delay and admit the appeal of the assessee for adjudication.
3. The only issue to be decided in this appeal is as to whether the Id NFAC was justified in confirming the action of the Id AO in considering the assessee

as an 'assessee in default' in terms of Section 201 of the Act and consequentially charging interest u/s 201(1A) of the Act in the facts and circumstances of the instant case.

4. None appeared on behalf of the assessee despite issuance of notice. We have heard the Id DR and perused the material available on record. The assessee is a partnership firm engaged in the business of trading of chemicals and indenting thereof on commission basis. The original assessment u/s 201 and 201(1A) of the Act was completed by the Id TDS Officer (hereinafter referred as "Id AO") vide order dated 05.03.2015 rejecting the plea of the assessee that there was no liability on the part of the assessee to deduct tax at source while making payment to transport contractors. Aggrieved, the assessee preferred appeal before the Id CIT(A), who upheld the action of the Id AO vide order dated 24.05.2016. Aggrieved, the assessee preferred an appeal before this Tribunal which was disposed of by this Tribunal vide order dated 20.08.2019 directing the Id AO to examine whether the payments have been made to the transport contractors were covered under the provisions of Section 44AE of the Act or not and directed to take a decision as per the provisions mentioned after due examination and referred the matter back to the Id AO regarding applicability of provisions of Section 194C(7) of the Act.

5. The assessee submitted that during the year under consideration, it had availed services of various transporters for carrying goods inward/ outward and paid transportation charges. The details of the same were duly produced. It was submitted that the tax deduction at source compliance were made only on the bills pertaining to the months of April to September 2009 as per the prevailing law for those months. The assessee pleaded that since the PAN of the transporters were available with the assessee, there was no obligation to deduct tax at source while making payment to the transporters from 01.10.2009. However, the assessee had duly complied with the tax deduction provision for invoices raised up to 30.09.2009. Accordingly, it was pleaded that there was no TDS violation done by the assessee with regard to payment made

to contractors. The Id TDS Officer noticed that the assessee had not furnished any supporting evidence in support of compliance of provisions of Section 44AE of the Act and compliance of provisions of Section 194C(7) of the Act by filing a declaration in the prescribed format to the prescribed authority intimating the PAN of the transporters. Accordingly, the Id TDS Officer treated the assessee as an 'assessee in default' in respect of non deduction of tax at source for transportation charges made on or after 01.10.2009 and levied a tax on the assessee in terms of Section 201 of the Act with consequential interest u/s 201(1A) of the Act vide consolidated order passed for AY 2010-11 to 2015-16 dated 29.09.2021. The Id NFAC upheld the action of the Id AO.

6. At the outset, we find that the Id AO had passed a consolidated order for AYs 2010-11 to 2015-16 instead of passing an independent order for each quarter of the respective AY. This itself makes the entire assessment void ab initio and accordingly, the order u/s 201/ 201(1A) of the Act dated 29.09.2021 is hereby quashed. Accordingly, the grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 03/04/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated: 03/04/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi