

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT**  
**MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

**ITA. NO.820/Ind/2024**  
**Assessment Year 2013-14**

Mahatma Gandhi State Institute of Rural Development, Adhartal <b>(TAN: JBPM05102G)</b> (Assessee/Appellant)	<b>बनाम/</b> Vs.	ACIT (TDS), Bhopal  (Revenue/Respondent)
Assessee by	Shri Rahul Bardia, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	19.06.2025	
Date of Pronouncement	24.06.2025	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

Feeling aggrieved by appeal order dated 21.03.2024 passed by learned Addl. Commissioner of Income-Tax (Appeals), Mysore ["Addl. CIT(A)"], which in turn arises out of order dated 12.06.2019 passed by learned Asstt. CIT-(TDS), Bhopal ["A.O"] u/s 201(1) & 201(1A) of Income-tax Act, 1961 ["the Act"] for the Financial Year [Q-1 to Q-4] relevant to Assessment Year ["AY"]

2013-14 the assessee has filed this appeal on following effective grounds:

*"1. That the Ld Addl/JCIT (A) erred in sustaining the TDS liability u/s 194J instead of 194C when the department has already accepted the TDS deduction u/s 194C in the order for FY 2010-11 and FY 2011-12.*

*2. That The Ld Addl/JCIT (A) erred in sustaining the order u/s 1,07,74,877 u/s 201(1) and Rs 78,65,660 u/s 201(1A) of the Income Tax Act by applying section 194J instead of section 194C. The deductor has rightly deducted TDS by applying section 194C.*

*3. That the Ld Addl/JCIT (A) erred in sustaining the order where no professional qualification is required by the NGO to whom the contract for training programmes are allotted as per government norms.*

*4. That the Ld Addl/JCIT (A) erred in sustaining the order when all the NGOs to whom payments are made for programmes are assessed to Income Tax and submitted their Income Tax returns on their own. There is no revenue loss to the government.*

*5. The appellant reserves the right to add or amend any ground of appeal.*

*6. That the Ld Addl/ JCIT (A) order is bad in law, facts void ab initio and without jurisdiction.*

*7. That the Ld Addl/JCIT (A) order is bad in law, facts void ab initio and without jurisdiction".*

2. The registry has informed that the present appeal is filed after a delay of 151 days. Ld. AR for assessee submitted that the assessee has filed a condonation application supported by an affidavit dated 16.10.2024 and prays for condonation. The reason for delay as averred in the affidavit is such that the

assessee is an office of Govt. and the delay of 151 days has occurred due to unavoidable circumstances which are stated in affidavit. Ld. DR for revenue did not object to the prayer of assessee. We have perused the affidavit and we are satisfied that sufficient cause is shown. In view of this, delay is condoned and the appeal is admitted and proceeded for hearing.

3. In background facts leading to present appeal are such that a TDS survey was conducted by income-tax authorities in the premise of assessee on 23.02.2016 pursuant to which notices were issued to assessee and ultimately an order u/s 201(1)/201(1A) dated 12.06.2019 was passed in which the assessee is deemed to be in default for short deduction of tax at source. In the said order, the A.O created demand of tax u/s 201(1) at Rs.1,07,74,877/- and interest u/s 201(1A) at Rs.78,65,660/-; total demand aggregating to Rs.1,86,40,537/-. Aggrieved, the assessee carried matter in first appeal but could not succeed. Now, the assessee has come in next appeal before us.

4. Ld. AR for assessee made a straightforward submission. He invited our attention to following provisos in section 201(1)/201(1A) effective from 01.07.2012:

1<sup>st</sup> proviso in section 201(1):

*"**Provided** that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a payee or on the sum credited to the account of a payee shall not be deemed to be an assessee in default in respect of such tax if such payee-*

*(i) has furnished his return of income under section 139;*

*(ii) has taken into account such sum for computing income in such return of income; and*

*(iii) has paid the tax due on the income declared by him in such return of income,*

*and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:*

1<sup>st</sup> proviso in section 201(1A):

*"**Provided** that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a payee or on the sum credited to the account of a payee but is not deemed to be an assessee in default under the first proviso to sub-section (1), the interest under clause (i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such payee."*

5. Then, Ld. AR submitted that the assessee has collected all documents required by aforesaid 1st proviso to section 201(1), copies of which are also filed before ITAT in the form of a paper-book. Therefore, the assessee is entitled to the benefit of 1st

proviso to section 201(1) as well as 1st proviso to section 201(1A). He prayed that this matter should be remanded back to the AO for giving statutory benefit in terms of those provisos to the assessee.

6. Ld. DR for revenue fairly agreed to the prayer of Ld. AR. He, however, requested that the assessee be directed to represent his case fully before AO without seeking unnecessary adjournments.

7. In view of above, we are inclined to remit this matter back to the file of AO who shall consider the claim of assessee and decide matter afresh. The assessee is also directed to make full representation before AO without seeking unnecessary adjournments.

8. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 24.06.2025.

Sd/-

**(BHAGIRATH MAL BIYANI)  
ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)  
JUDICIAL MEMBER**

Indore

दिनांक/ Dated : 24 /06/2025

Dev/Sr. PS

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore