

आयकरअपीलीयअधिकरण, रायपुर न्यायपीठ,रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्रीअरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 350/RPR/2025

(निर्धारण वर्ष Assessment Year: 2011-12)

Block Resources Coordinator, Rajiv Gandhi Siksha Mission, Block Kansabel, BRCC Office, Kansabel, District: Jashpur- 496223, C.G.	v	Income Tax Officer (TDS), Bilaspur s In front of Ananda Hotel, Shree Plaza, Vyapar Vihar, Bilaspur-495004, C.G.
TAN: JBPB03886B		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Veekass S Sharma, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	20.06.2025
घोषणा की तारीख / Date of Pronouncement	:	26.06.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeal), ADDL/JCIT (A)-1, Mumbai, [in short "Ld. CIT(A)"], passed on 13.03.2025, under section 250 of the Income Tax Act, 1961 (in short "the Act"), for the Assessment Year 2011-12, which in turn arises from the order of Income Tax Officer (TDS), Bilaspur, (in short "Ld. AR"), u/s 201(1) & 201(1A) of the Act, dated 17.03.2018.

2. The grounds of appeal raised by the assessee assailing the order of Ld.

CIT(A) are as under:

1. *The Ld. ITO (TDS), Bilaspur has erred in imposing fees of Rs. 31,764/- u/s 234E as the provisions of S. 234E was inserted vide Finance Act, 2012, w.e.f. 1st July 2012, whereas, the present case pertains to F.Y. 2010-11, therefore, the provisions of S. 234E is not applicable, thus, the said fees may kindly be deleted.*
2. *The Ld. ITO (TDS), Bilaspur has erred in computing the amount payable u/s 201(1) in respect of payment for purchase of food items as the transaction involving mere purchase of food items does not constitute a contract u/s 194C, therefore, the liability to deduct TDS does not arise, thus, demand of Rs. 3,226/- may kindly be deleted.*
3. *The Ld. ITO (TDS), Bilaspur has erred in computing the amount payable u/s 201(1) in respect of payment made for renting of mattress, chairs etc. as the provisions of S. 194-I is not applicable where the amount of Rent does not exceed Rs. 1,80,000, in the present case, since the amount paid is less than Rs. 1,80,000/-, therefore, there is no liability to deduct TDS u/s 194-1, thus, demand of Rs. 25,989/- may kindly be deleted.*
4. *The Ld. ITO (TDS), Bilaspur has erred in calculating interest u/s 201(1A) as the assessee was not liable to deduct TDS u/s 194C or 194-1, therefore, in the absence of any default in TDS deduction, the levy of interest u/s 201(1A) may kindly be deleted.*
5. *The order passed by the Ld. ADDL/JCIT(A)-1, Mumbai u/s 250 dated 13.03.2025 is unsustainable as the said order has not been passed in terms of S. 250(6), thus, the order u/s 250 dated 13.03.2025 may kindly be set aside.*
6. *Without prejudice to the above, the Ld. ADDL/JCIT(A)-1, Mumbai is not justified in passing the ex-parte order without providing sufficient opportunity of being heard to the assessee, thus, the said order may kindly be held as illegal and bad-in-law on account of violation of principles of natural justice.*
7. *Without prejudice to the above, the Ld. ITO (TDS), Bilaspur is not justified in passing the order u/s 201(1) & 201(1A) without verifying discharge of tax liability by the payee, therefore, it is humbly prayed that the Order passed by the Ld. ITO (TDS), Bilaspur, may kindly be set aside.*
8. *The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of Appeal.*

3. Brief facts of the case are that the assessee is a Government Agency established for implementation of Sarva Siksha Abhiyan Project in the state of Chhattisgarh. The assessment proceedings were initiated against the assessee u/s 201(1) and 201(1A), observing certain discrepancies regarding deduction of TDS u/s 194C of the Act and irregularity in filing of e-TDS returns. Resultantly, TDS demand of Rs.86,021/- (TDS-Rs. 29,215 interest- 25,042 and Fee u/s 234E-31764) has been raised on the assessee.

4. Aggrieved with the aforesaid additions, the assessee preferred an appeal before the Ld. CIT(A), however, on account of non-compliance, the appeal of assessee has been dismissed on *ex-parte* basis. The relevant findings showing the dismissal on *ex-parte* basis. The relevant findings are as under:

On perusal of records, it is noticed that during the course of appellate proceedings, appellant had not filed or uploaded any response and written submissions in the office of the undersigned to substantiate its claim made in the grounds of appeal. Only he remained silent since filing this appeal to till date. The non-compliance of the appellant in response to the notices issued u/s 250 of the Act on various dated is summarized as under:

Sr. No.	Notice issuing Date	Date fixed for Hearing	Way of Service of Notice	Result
1.	23.12.2024	30.12.2024	E-mail	No compliance
2.	24.02.2025	03.03.2025	E-mail	No compliance
3.	07.03.2025	12.03.2025	E-mail	No compliance

Considering the non-compliance as detailed above by the appellant, it seems that the appellant is not interested to pursue the appeal. Therefore, it cannot be kept pending adjudication for indefinite period. The Appellant has not bothered to comply to the notices issued during the course of appellate proceedings. If the appellant is not availing opportunities given, they cannot allege contravention of principles of natural justice as held in the case of P.N. Balasubramaniam (AP) 112 ITR 512. Therefore, the appeal of the appellant is liable for dismissal.

5. Before us, Ld. AR on behalf of the assessee, has raised various contentions by filing of the synopsis to the case, however, we are unable to deal with all such issues, as on such contentions of the assessee which are not placed before the First Appellate Authority, the Ld. CIT(A) was unable to discharge the duties incumbent upon him under the provisions of Section 250(4) & (6). It is brought to our noticed that the assessee was not provided with sufficient opportunity of being heard by the First Appellate Authority, also assessee opted for communication other than by way of email in Form 35, by mentioning “**NO**” towards the option *whether notices / communication may be sent on email*, therefore, the assessee was unable to comply to the notices issued by First Appellate Authority u/s 250 of the Act, but now it is willing to do the same, if one more opportunity be granted. Regarding the method of communication nothing could be brought on record by the revenue to dislodge the said contentions of the assessee that the assessee was served with notices or communications other than by email by the First Appellate Authority.

6. Per contra, Ld. Sr. DR vehemently supported the order of Ld. CIT(A), however had fairly agreed, if the matter is set aside to the file of Ld. CIT(A) for fresh adjudication.

7. Considering such facts and circumstances, without adverting to the merits of issues in the present appeal, we find it appropriate to provide one last and final opportunity to the assessee by restoring the mater back to the file of First Appellate Authority for *denovo* adjudication, within a period of 3 months from the receipt of this order.

8. Needless to say, the assessee shall be afforded with reasonable opportunity of being heard in the set aside appellate proceedings. The assessee as conceded before us is directed to cooperate and assist proactively in the set aside proceedings, failing which the Ld. CIT (A) would be at liberty to decide the case in accordance with the mandate of law.

9. In result, appeal of the assessee is **allowed for statistical purposes**, in terms of over aforesaid observations.

Order pronounced in the open court on 26/06/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर/Raipur; दिनांक Dated 26/06/2025

Vaibhav Shrivastav

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

1. अपीलार्थी/ The Appellant- Block Resources Coordinator
2. प्रत्यर्थी/ The Respondent- Income Tax Officer (TDS), Bilaspur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur