आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.: 758 and 759/Chny/2025**
निर्धारण वर्ष / Assessment Year: **2023-24, 2024-25**

METTUR MUNICIPALITY Municipality Office Road, Mettur Dam, Salem – 636 401. Tamil Nadu	vs.	**INCOME TAX OFFICER** **(TDS) SALEM.**
[PAN: AAALM2764R] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. S. Bhupendran, Advocate.
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 04.06.2025
घोषणा की तारीख/Date of Pronouncement : 12.08.2025

आदेश /O R D E R

PER S. R. RAGHUNATHA, AM :

These two appeals filed by the assessee are directed against separate orders passed by the learned Commissioner of Income Tax, Appeal, ADDL/JCIT (A), Mumbai (In short "ld.CIT(A)") vide order dated 24.01.2025 and 27.01.2025 for assessment years 2023-24 and 2024-25 respectively. Since, facts are identical and issues are common, for the sake of convenience, these appeals filed by the assessee are being heard together and disposed of by this consolidated order.

2. The grounds raised by the assessee are as follows:

1) The impugned Order is bad, erroneous, illegal and liable to be quashed.

2) The Assessing Officer and the Learned Addl./Joint Commissioner (Appeals) erred in not considering the bona fide explanation on the part of the Appellant regarding the status and nature of the entity involved.

3) Without prejudice, the Learned Addl.Joint Commissioner(Appeals) erred in dismissing he appeal filed, without granting sufficient opportunities of hearing, considering the nature of issues involved and the detailed submissions filed, causing prejudice to the Appellant.

4) Without prejudice, the Learned Addl./Joint Commissioner(Appeals) and the Assessing Officer erred in not considering the provisions of Sections 194(A)(3)(iii)(F) read with Notifications No.S.O. 3489 datead 22/10/1970 and Sections 196, which clearly prove that the provisions of the Income Tax Act relating to TDS do not apply to payment made t the entity involved, being modal agency of the Government.

5) Without prejudice, the Learned Addl./Joint Commissioner (Appeals) and the Assessing Officer erred in not considering several decisions cited by the Appellant and in attempting to artificially distinguish them, including the jurisdictional Chennai ITAT decision in ITA Nos. 5,6,79 & 80/MDS/2010 dated 11/09/2012.

6) Without prejudice, the Learned Addl./Joint Commissioner(Appeals) erred in upholding the order of the Assessing Officer, without applying the principles and decisions cited by the Appellant, turning a blind eye to the circumstances of the instant case.

And, for other reasons that may be adduced later, the Appellant humbly prays that the present appeal be admitted, duly considered and justice be rendered.

3. The brief facts of the case are that the assessee Municipality is a local body functioning under the Government of Tamil Nadu and dependent on the funds and grants issued by the State Government. In order to implement welfare schemes for the general public under its jurisdiction, the assessee also borrowed loans from Tamil Nadu Urban Finance and Infrastructure Development Corporation (TUFIDCO) after approval of the Director of Municipal Administration.

4. During the impugned periods, Interest payments were made to TUFIDCO out of State Finance Commission Proceeds by making deductions from the grants given by the Government of Tamil Nadu to the assessee.

5. Taking the cases for scrutiny, the Income Tax Officer, TDS Ward, Salem issued show cause notices proposing to treat the Commissioner, Mettur Municipality as the person responsible for deduction of TDS and the assessee as “Assessee-in-Default”. In response, it was submitted by the assessee that due to shortage of

funds, there was no interest payment made directly by the assessee. Rather, it was deducted from grants receivable from the State Government.

6. On perusal of the submissions, the AO passed Orders u/s.201 of the Act dated 26/11/2024, by not accepting the reply filed and treating the assessee as "Assessee-in-Default". The AO observed that other local bodies were deducting TDS on payments made to TUFIDCO and also that the case of the assessee is not covered by any of the exemptions u/s.194A of the Act.

7. Aggrieved by the Order dated 26/11/2024 and received on 27/11/2024, the assessee preferred an appeal before the First Appellate Authority on 24/12/2024, assailing the action of the AO on various grounds including non-consideration of material factors including nature and composition of TUFIDCO and the complete Government Control present in it and also that the provisions of Section 194A(3)(iii)(f) and 196 were not considered, especially in light of Chennai Tribunal decision in the case of TUFIDCO itself holding that interest received from local bodies do not represent the income of TUFIDCO.

8. During the course of first appeal proceedings, the Additional/Joint Commissioner of Income Tax (Appeals)-2, Mumbai issued a single hearing notice dated 06/01/2025 granting time till 21.01.2025. In response, the assessee filed an elaborate reply with supporting documents and the case laws relied on 19.01.2025 for AY 2023-24 [Ack No. 831031261190125] and on 20.01.2025 for AY 2024-25 [Ack No. 831068711200125].

9. Essentially, the arguments of the assessee before the Addl/JCIT(A)-2, Mumbai were that:

- *TUFIDCO was established under the Companies Act in 1990 with the object of providing financial assistance and guidance to corporations, local bodies and other agencies of the State Government;*
- *TUFIDCO is completely controlled by the State Government, as apparently visible from its Board of Directors, who are Principal Secretaries, Additional Chief Secretaries, Special Secretaries and Member Secretaries to various departments of the State Government only;*
- *TUFIDCO is the nodal agency of the State Government of Tamil Nadu for implementation of special schemes like Jawaharlal Nehru National Urban Renewal Mission, Mega City Programme and several other schemes of the Central Government in Tamil Nadu;*

- *The entire shareholding of TUFIDCO vests with the government - 96.9375% held by the Governor, State Government of Tamil Nadu, 2.4375% by Urban Local Bodies and 0.625% by Housing and Urban Development Corporation Limited, which is a central government undertaking;*

- *In exercise of powers conferred under Section 194A(3)(iii)(f), the Central Government issued Notification No. S.O.3489 [No.170(F.No.12/164/68-ITCC/ITJ)] dated 22/10/1970 listing out such entities exempted from the operation of Section 194A. Among those listed, TUFIDCO is covered by Category (ii) -* ***"any company in which all the shares are held by the Government"****;*

- *In fact, TUFIDCO acts only as per directives and policy guidelines of the State Government and as such, the Chennai ITAT in TUFIDCO's own case in* ***ITA Nos. 5, 6, 79 & 80/Mds/ 2010 dated 11/09/2012 reported in [2013] 33 taxmann.com 612 (Chennai-Trib.)*** *held that interest received by TUFIDCO from local bodies for loans advanced for welfare funds did not constitute the income of TUFIDCO. While holding so, the Chennai ITAT followed the Karnataka High Court's Order in the case of* ***Karnataka Urban Infrastructure and Development Finance Corporation****;*

- *The overwhelming dominance and control of the State Government over the functioning and funds of TUFIDCO are clear from the fact that State Government made deductions on account of interest dues from the Appellant Municipality in the State Finance Commission Proceedings conducted by the Director of Municipal Administration, Chennai;*

- *The Assessing Officer also grossly failed to appreciate the application of Section 196 of the Income Tax Act, which is an over-riding provision starting with a Non-Obstante Clause. While Section 194A(3)(iii)(f) focuses on the character of the entity receiving payment, Section 196 focuses on the ultimate beneficiary of the payment, that is, whether any sum is payable to the Government.*

- *While applying the provisions of Section 196, the ITAT, Bangalore in* ***ITA No.993 to 998 & 1000, 1002, 1003 & 1004/Bang/2013 dated 21/11/2014*** *postulated the* ***'Doctrine of Over-riding Title'****, as per which even though a sum of money may be credited to a person, another person would have full control over the manner of disposing of such sum;*

- *Applying this doctrine, the ITAT held that interest payments from the Mysore Urban Development Authority to KUIDFC were ultimately made to State Government, Karnataka and that there is no liability to deduct TDS;*

- *In similar context, the ITAT, Kolkata in* ***ITA Nos. 279 & 280/Kol/2016 dated 08/09/2017*** *held that when the Assessee is only a custodian of funds of the Government for smooth implementation of welfare schemes, the ownership does not vest in it and it merely acts as a nodal agency and custodian of funds. Hence, TDS obligation does not arise;*

- *Thus, the payments, though made to TUFIDCO are ultimately made to the Government only and that such sums are to be utilized only as per directives of the Government and in line of policy guidelines of the Government of Tamil Nadu.*

However, the Addl/JCIT(A)-2, Mumbai, without giving another opportunity of hearing to the Appellant requiring the assessee to clarify further on his doubts or to

provide additional data and documents to prove its case, passed the Impugned Order u/s.250 of the Act [on 24/01/2025 for AY 2023-24, on 27/01/2025 for AY 2024-25].

10. The Addl/JCIT(A)-2, Mumbai observed that the shareholding of TUFIDCO shows that it is not 100% owned by the Government, unlike KUIDFC. As such, the Notification dated 22/10/1970 cited by the assessee would not apply. In fact, the Central Government has not separately notified TUFIDCO u/s.194A(3)(iii)(f) of the Act.

11. The Addl/JCIT(A)-2, Mumbai observed that the decision of Bangalore ITAT also did not apply to the instant case for that reason. The decision of Chennai ITAT in the case of TUFIDCO itself was held to be inapplicable, as the Tribunal was dealing with the question of whether interest receipts of TUFIDCO constituted its income or not.

12. Without giving any finding as to the application of the provisions of Section 196 of the Act and the decision of the Kolkata ITAT and the State Finance Commission Proceedings relied upon by the assessee, the Ld.CIT(A) dismissed the appeal filed.

13. Aggrieved, the assessee preferred an appeal before us, raising the grounds of appeal.

14. The ld.AR for the assessee filed a paper-book before us, [Paper-book for AY 2023-24 containing 196 pages; Paper-book for AY 2024-25 containing 264 pages] annexing copies of Written Submissions filed before the First Appellate Authority, State Finance Commission Proceedings, Loan Assistant Document, ITAT Chennai, Kolkata, Bangalore and Jammu and Kashmir HC Orders, Central Government Notifications dated 22/10/1970 and 20/03/2019 and Board Composition Details and RTI Manual about functioning of TUFIDCO.

15. The ld.AR submitted twofold arguments stating that ld.CIT(A) erred in not appreciating the arguments raised as under:

(i) TUFIDCO is completely owned and financed by the Government, thereby falling into Notification No.S.O.3489 [NO. 170 (F.NO. 12/164/68-ITCC/ITJ).] dated 22/10/1970 issued under Section 194A(3)(iii)(f) of the Act;

(ii) The Interest Payments given to TUFIDCO are actually the income of the State Government of Tamil Nadu, attracting the provisions of Section 196 of the Act.

16. In support of the first argument, the Learned First Appellate Authority erred in failing to consider the purpose of incorporation of TUFIDCO itself – to provide financial assistance and act as implementing agency for government schemes [Page No.15 of both paperbooks];

17. The Learned First Appellate Authority also failed to appreciate that Board of Directors of TUFIDCO were fully IAS Officers of Tamil Nadu State Government, ensuring that there is Complete Government Control on its functioning [Page No.17 of both paperbooks];

18. The Learned First Appellate Authority erred in not considering the Share-holding pattern of TUFIDCO, where, according to the Appellant, all shares are held by Government only. The First Appellate Authority might have been concerned with shareholding of HUDCO of 0.625% of total shares of the assessee;

19. The Learned First Appellate Authority lost sight of the fact that HUDCO is also a Central Government Undertaking, falling within the definition of Government and also that it has also been specifically exempt under Section 194A(3)(iii)(f) vide Government Notification No.S.O.1399 (E) [No.26/2019 (F.No.275/15/2018-IT(B))] dated 20/03/2019. [Page No. 195 of Paper-book for AY 2023-24 and 263 of Paper-book for AY 2024-25];

20. Further, the Learned First Appellate Authority also erred in observing that there was no specific Notification issued by the Central Government under Section 194A(3)(iii)(f) of the Act, specifically exempting TUFIDCO. This observation is directly contrary to the ratio of Jammu and Kashmir High Court in ITA No.10 and 11 of 2016 dated 14/07/2023, where it was held that there is no specific notification needed for each individual entity, when the nature of the entity is in line with any of the class specified in Notification dated 22/10/1970 [High Court Order in Page Nos. 183 to 192 of Paper-book for AY 2023-24, Page Nos. 251 to 259of Paper-book for

AY 2024-25] [Government Notification in Page No.137 of Paper-book for AY 2023-24, Page No.205 of Paper-book for AY 2024-25];

21. Further, the Learned First Appellate Authority erred in not applying the Bangalore ITAT Order rendered in the context of KUIDFC to the context of TUFIDCO, holding that the case is distinguishable. In this context, it may be noted that the Appellate Authority failed to consider that the Chennai ITAT in TUFIDCO's own case followed Karnataka High Court's Order in the case of KUIDFC only. Thus, when the Jurisdictional Tribunal has found the context to be the same, the Learned Appellate Authority erred in not applying it;

22. Further, the Learned First Appellate Authority also erred in not considering the Right to Information Manual of TUFIDCO filed during First Appeal, where several details on the functioning of TUFIDCO including the schemes undertaken by it are mentioned. [Page Nos. 19 to 62 of both Paper-books];

23. With respect to the second argument of the assessee claiming applicability of Section 196 of the Act, the First Appellate Authority did not consider the submission and made any adjudication at all. The Appellate Order stands as a testimony for this claim;

24. The Right to Information Manual about TUFIDCO was once again referred, where it is clearly mentioned as to how TUFIDCO would disburse funds for specific schemes of the Central or State Government. For instance, if we take Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT), the shares of the Central and State Governments are 80% and 10% respectively, with the remaining 10% representing shares of the Urban Local Bodies itself. In this context, TUFIDCO only disburses 90% of the total expenditure needed for that particular scheme with the 10% to be met by the concerned Urban Local Body itself [Page No.49 of both Paper-books];

25. As such, TUFIDCO is only a nodal agency of the Government acting with the object of disbursing the funds of the Government on soft terms to local bodies under given specific schemes and heads as per policy of the Government, which itself

shows that the entity does not earn income out of the disbursal activity and is only acting as agent of the Government;

26. In the instant case, the subject interest payments were made to TUFIDCO on account of Loan Assistance given under the Special Road Programme of the State Government. On proposal made from four corporations, loan assistance was provided by TUFIDCO after approval from the State Government; Copies of the relevant Government Order and correspondences from and with TUFIDCO were attached in the paper-books filed [Page Nos.63 to 80 of both Paper-books];

27. In this context, the Learned First Appellate Authority erred in not considering that the Appellant relied on the Jurisdictional ITAT Decision in case of TUFIDCO itself [ITA Nos. 5, 6, 79 & 80/Mds/2010 dated 11/09/2012 reported in [2013] 33 taxmann.com 612 (Chennai - Trib.)], where the ITAT dismissed the appeal of the Revenue by following the decision of the Karnataka High Court in the case of KUIDFC itself reported in [2006] 282 ITR 582 [Karnataka], both of which decisions categorically reiterated the fact that TUFIDCO is a nodal agency of the Government for disbursing funds to local bodies for the purpose of carrying out developmental projects from time to time [Page Nos.139 to 146 of Paper-book for AY 2023-24, Page Nos.207 to 214 of Paper-book for AY 2024-25];

28. In fact, it may be noted that these decisions have gone to the extent of observing that even interest income earned from funds parked in the bank account by the nodal agency was not subject to income tax, as, ultimately, the funds in question belong to government;

29. Section 196 uses the words ‘any sums payable to the Government, where such sum is payable to it by way of -

a) interest or dividend in respect of any securities or shares
- *owned by it or*
- *in which it has full beneficial interest, or*

b) any other income accruing or arising to it.’

30. Admittedly, the subject interest payments are not towards securities held by the government thereby not falling under the first category. The second category – ‘any other income accruing or arising to it’ appears to be very wide, even individually and also when read in conjunction with the opening phrase ‘any sum payable to’;

31. In the instant case, although the interest was paid to the credit of TUFIDCO, the interest receipts ultimately vest with the State Government only in line with the Special Road Programme of the State Government itself;

32. In this regard, apart from referring to the Loan Assistant Document, the assessee would also refer to State Finance Commission Devolution Proceedings before the Director of Municipal Administration, Chennai, which clearly mention about the interest and loan dues to TUFIDCO deducted from the grants made by the State Government and are clearly marked under the head – 'SRP', representing Special Road Programme [Page Nos.131 to 136 of Paperbook for AY 2023-24, Page Nos.81 to 204 of Paperbook for AY 2024-25];

33. The Learned First Appellate Authority erred in not considering that in support of this contention also, reliance was placed on the Bangalore ITAT decision dated 21/11/2014, which highlighted 'Doctrine of Over-Riding Title', that is, although a property may be nominally owned by a person for particular purpose or time being, another person would have a complete say in the manner of holding and disposing the property;

34. Applying such doctrine, the Bangalore ITAT invoked the provisions of Section 196 of the Act and held that KUIDFC was only a nodal agency of the State Government and that the funds ultimately belonged to Government of Karnataka and as such, the Appellant in that case had no obligation to deduct TDS [Page Nos.163 to 182 of Paper-book for AY 2023-24, Page Nos.231 to 250 of Paper-book for AY 2024-25];

35. The Bangalore ITAT discussed the shareholding of KUIDFC only in so far as applicability of Section 194A(3)(iii)(f) and Notification dated 22/10/1970 was concerned and not in the context of applicability of Section 196 or the Doctrine of Over-riding Title;

36. Even if the Learned First Appellate Authority is presumed to be right in distinguishing the facts of that decision on the aspect of share-holding of TUFIDCO and KUIDFC, the decision is fully applicable in the context of Section 196 viz-a-viz

the ultimate beneficiary having over-riding title over the interest receipts of TUFIDCO in respect of this particular Special Roads Programme;

37. Further, the First Appellate Authority erred in not considering that in the same context only, the assessee relied on decision of Kolkata ITAT in ITA No. 279 & 280/Kol/2016 dated 08/09/2017, where the ITAT on similar circumstances held that the Appellant was not liable to deduct TDS in respect of payment to Gujarat Enviro Protection and Infrastructure Limited [GEPIL], as the funds ultimately belonged to the State Government of West Bengal [Page Nos.147 to 162 of Paper-book for AY 2023-24, Page Nos.215 to 230 of Paper-book for AY 2024-25];

38. As such, as interest income earned by TUFIDCO out of funds disbursed on soft terms to local bodies at the behest of the State Government for implementation of welfare scheme is not its income, as supported by the findings made by the Chennai ITAT in the case of TUFIDCO itself, the argument of the assessee that the interest on loan funds is ultimately payable to the Government not warranting deduction of TDS as per Section 196 becomes fortified;

39. Further, as stated even before the AO, the Interest Payments were not made by the assessee Municipality to TUFIDCO directly. Rather, it was deducted by the State Government itself through SFC Proceedings conducted by the Director of Municipal Administration. Copies of SFC Proceedings were placed in the Paper-books filed;

40. The assessee did not have control over the mode of the interest payments itself, as the deductions were done as per the loan terms agreed upon by the State Government and TUFIDCO itself, as mentioned in Loan Assistant Document attached in the respective Paper-books;

41. The State Finance Commission Devolution Proceedings attached as part of the Paper-books reveal that the assessee was only provided with the Net Amount by the Government, after making deductions towards Interest Dues towards TUFIDCO. Thus, in reality, the assessee did not have any control over the amount paid to the credit of TUFIDCO and the assessee stands in the debit side only for nomenclature

and the entire transaction is carried out by the State Government as per terms of the loan assistance;

42. As such, the Commissioner of the assessee Municipality cannot be termed as "Person responsible for paying" as per Section 194A(1) of the Act, which is a pre-condition for deeming the Appellant to be an Assessee-in-Default in the first place. Thus, casting liability on the Appellant in the first place and treating it as an Assessee-in-Default is totally arbitrary and unjust.

43. In this regard, it may also be noted that making the assessee responsible for deducting TDS on payments not actually made by it amounts to requiring the assessee to have performed the impossible. Law always presumes impossibility of performance as an excuse for the obligations laid down and necessarily discharges the person required under law from their performance [lex non cogit ad impossibilia]. As such, the AO and the Learned First Appellate Authority erred in treating the assessee as an 'assessee-in-default' for not performing something, which could not have been performed in the first place.

In light of the above, the ld.AR prayed that the Appellate Order upholding the Order u/s.201 of the Act may be quashed.

44. Per contra the ld.DR submitted that the recipient of the interest income i.e. TUFIDCO does not fall in the exception given u/s.194A(3)(iii)(f) and hence there is no mistake in the order of the ld.CIT(A) and hence prayed for confirming the same.

45. We have heard the rival submissions perused the material placed on record, paper book filed along with submissions and case laws relied upon. Admittedly the facts of the case are not in dispute. The only issue is whether the assessee is liable to deduct tax on interest payable to TUFIDCO for the impugned assessment years. On perusal of the records, we note that the interest income earned by TUFIDCO out of funds disbursed on soft terms to local bodies at the behest of the State Government for implementation of welfare scheme is not its income, as supported by the findings made by the Chennai Tribunal in the case of TUFIDCO itself as referred supra, the argument of the assessee that the interest on loan funds is ultimately payable to the Government. Therefore, once the receipt is not an income of the

recipient, the liability of TDS does not arise as per section 194A of the Act. The relevant paras of the decision of the coordinate bench in the case of ITA No. ITA Nos.5, 6, 79 & 80/Mds/2010 dated 11.09.2012 is given below:

> *"8. We have heard the submissions made by both the parties and have examined the orders passed by the lower authorities. It is an admitted fact that the assessee is a State Government Undertaking and is only acting as nodal agency for receiving funds from Central as well as State Governments and the disbursement of the funds for the development and the infrastructure projects is as per the directions of the Government from time to time. The controversy involved in the present appeal is with regard to accrued interest on the funds advanced to the local bodies /IDSMT funds programme. The Hon'ble Karnataka High Court in CIT Vs. Karnataka Urban Infrastructure Development & Finance Corporation (supra) has held as under:-*
>
> > *"4. The material on record shows that the very purpose of constitution of the assessee was to act as a nodal agency for implementation of mega-city scheme worked out by the Planning Commission. Both the Central and the State Governments are expected to provide requisite finances for implementation of the said project. The funds from the Central and State Governments will flow directly to the specialised institutions/nodal agencies as grant and the nodal agency will constitute a revolving fund with the help of Central and State shares out of which finance could be provided to various agencies such as water, sewerage boards, municipal corporations, etc. The objective is to create and maintain a fund for the development of infrastructural assets on a continuing basis and, therefore, the assessee is a nodal agency formed/created by the Government of Karnataka as per the guidelines; there is no profit motive as the entire fund entrusted and the interest accrued therefrom on deposits in bank though in the name of the assessee has to be applied only for the purpose of welfare of the nation/States as provided in the guidelines; the whole Of the fund belongs to the State Exchequer and the assessee has to channelise them to the objects of centrally sponsored scheme of infrastructural development for mega-city of Bangalore. Funds of one wing of the Government is distributed to the other wing of the Government for public purpose as per the guidelines issued. The monies so received, till it is utilised, is parked in a bank. The finding recorded by the Tribunal clearly shows that the entire money in question is received for implementation of the scheme which is for a public purpose and the said scheme is implemented as per the guidelines of the Central Government and, therefore, the assessee is only acting as a nodal agency of Central Government for implementation of these projects. It is not the case of the Revenue that the assessee was carrying on any business or activities of its own while implementing the scheme in question. The unutilised money, during which the project could not be fully implemented, is deposited in a bank to earn interest. That interest earned is also again utilised for the implementation of the mega-city scheme which is also permitted under the scheme. Therefore, in computing the total income of the assessee for any previous year the interest accrued on bank deposits cannot be treated as an income of the assessee as the interest is earned out of the money given by the Government of India for the purpose of implementation of mega-city scheme.*
>
> > *5. Therefore, we do not find any error in the conclusion reached by the Tribunal that there was no income earned by way of interest by the assessee*

and setting aside the order of AO which is affirmed by the first appellate authority. The finding given by the Tribunal is purely a question of fact. We do not find any substantial question of law involved in this appeal and therefore, this appeal is liable to be dismissed at the stage of admission itself."

9. On the other hand, the D.R. has placed reliance on the order of the Tribunal in assessee's own case relevant to the assessment year 2004-05 in ITA No.352/Mds/2007 decided on 8.2.2008. In the aforementioned case, the issue involved was with regard to claim of the assessee to treat its entire income as expenditure under section 10(23G) of the Income Tax Act and has also claimed deduction under section 36(1)(viii) of the Act to the extent of 40% of the business income without approval from CBDT. We are of the considered opinion that the controversy involved in the present case is different from the one which has been decided by the Tribunal in ITA No.352/Mds/2007 relevant to the assessment year 2004-05. However, the present case of the assessee is squarely covered by the Division Bench judgement of the Hon'ble Karnataka High Court, wherein it has been held that since interest earned is again utilized for implementation of the mega-city Scheme, the same cannot be treated as income of the assessee. The interest is earned out of the money given by the Government of India for the purpose of implementation of mega-city Scheme.

10. We, therefore, uphold the findings of the CIT(A) and dismiss the appeal of the Revenue being devoid of merits."

46. Therefore, in the light of the peculiar facts and by respectfully following the coordinate bench decision, we are of the considered view that the interest expenses claimed by the assessee which is paid to TUFIDCO is not an income in the hands of the recipient. Further, Interest Payments were not made by the assessee to TUFIDCO directly. We find that it was deducted by the State Government itself through SFC Proceedings conducted by the Director of Municipal Administration. (Copies of SFC Proceedings Paper-books filed). Thus, the assessee did not have any control over the mode of the interest payments itself, as the deductions were done as per the loan terms agreed upon by the State Government and TUFIDCO itself, as mentioned in Loan Assistant Document attached. The State Finance Commission Devolution Proceedings attached as part of the Paper-books reveal that the assessee was only provided with the Net Amount by the Government, after making deductions towards Interest Dues payable to TUFIDCO. Therefore, the assessee did not have any control over the amount paid to the credit of TUFIDCO and the assessee stands in the debit side only for nomenclature and the entire transaction is carried out by the State Government as per terms of the loan assistance. Therefore, as per Section 194A(1) of the Act, casting liability on the assessee by treating it as an assessee-in-default is not warranted.

47. In view of the above, we also observed that the assessee cannot be compelled to do an act which is beyond his control as law of impossibility of performance. Therefore, based on the above reasoning and the case laws discussed, we are setting aside the order of the ld.CIT(A) and direct the AO to delete the liability of TDS along with the interest thereon for both the A.Ys. 2023-24 and 2024-25.

48. In the result both the appeals of the assessee are allowed.

Order pronounced in the court on 12th August, 2025 at Chennai.

Sd/-	*Sd/-*
(मनु कुमार गिरि**)**	**(**एस**.** आर**.** रघुनाथा**)**
(MANU KUMAR GIRI)	**(S.R.RAGHUNATHA)**
न्यायिक सदस्य**/Judicial Member**	लेखासदस्य**/Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 12th August, 2025

RL

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF