

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, VICE PRESIDENT &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.652/Ahd/2025
(Assessment Year: 2013-14)

Kad Steel Rolling Mills, Plot No. 3227, Phase-IV, Ramol Chokdi GIDC, Ahmedabad-382330	Vs.	Income Tax Officer, Ward-2, TDS, Ahmedabad
[PAN No.AADFK5833C]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Divya Agarwal, AR
Respondent by:	Shri Rajenkumar M Vasavda, Sr. DR

Date of Hearing	12.08.2025
Date of Pronouncement	25.08.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), ADDL/JCIT(A)-2, Pune vide order dated 29.01.2025 passed for A.Y. 2013-14.

2. The assessee has raised the following grounds of appeal:

“1. Ld. CIT(A) NFAC has erred in confirming the order of A.O. levying penalty U/s. 201(1) of Rs. 42,924 and interest u/s. 201(1A) of Rs. 40,866 aggregating Rs. 83,790/- for late submission of Forms 15G and 15H for non-deduction of TDS from payment of interest to depositors. In as much as, Ld. A.O. as well Hon. CIT(A) has not disputed that: i. Form No. 15G and 15H are filed. There is delay of 3 months. ii. The deductees and assessed to tax and have paid tax as per Return of Income filed. iii. The interest U/s. 201(1A) is wrongly charged since there is no liability to deduct tax. iv. The marginal delay is technical default and in view of the above facts TDS U/s. 201(1) and interest U/s. 201(1A) cannot be levied.”

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3. The brief facts of the case are that the Assessing Officer (TDS) initiated proceedings under section 201(1) and 201(1A) of the Income-tax Act, 1961 (Act) on the assessee based on information received from ITO, Ward 3(2)(9), Ahmedabad. During the assessment of M/s Kad Steel Rolling for A.Y. 2013–14, it was found that the assessee had paid interest of Rs. 4,29,244 during the financial year 2012–13 to various parties but had not deducted TDS on these payments. The assessee submitted that the assessee had received Form No. 15G/H from the recipients of interest to justify non-deduction of TDS. However, the Assessing Officer (TDS) observed that these forms were not submitted to the Income Tax Department within the statutory timeline. Accordingly, the assessee was asked to submit the copies of Form No. 15G/H and supporting documents. In response, the assessee submitted the required forms along with audit reports and ledger accounts, and also produced proof that the forms had been submitted on 03.07.2013 with the concerned Officer. However, the Assessing Officer (TDS) noted that these Form No. 15G/H has been submitted by the assessee well beyond the due date of 07.04.2013. **Accordingly, the AO held that the late submission of Form No. 15G/H meant the assessee could not be exempted from the obligation to deduct tax at source, and accordingly, treated the assessee as an assessee-in-default under section 201(1) of the Act. Interest was also levied under section 201(1A) of the Act for the delay.** The Assessing Officer computed the total demand at Rs. 83,790/-, comprising Rs. 42,924/- as TDS and Rs. 40,866/- as interest.

4. Aggrieved by this order, the assessee filed an appeal before the Commissioner of Income Tax (Appeals). During appellate proceedings, the

assessee admitted that the forms were indeed filed late but submitted that the delay was due to an inadvertent oversight by their accountant. The CIT(A), however, held that such an explanation did not constitute a valid reason for non-compliance with the statutory provisions. The CIT(A) also noted that while he had the authority to condone delays in filing appeals, he does not have the power to condone delays in the filing of statutory forms like Form No. 15G/H, since such powers lie only with the CBDT under section 119(2)(b) of the Act. Consequently, finding the AO's action in line with the provisions of law, the CIT(A) upheld the order passed under section 201(1) and 201(1A) and confirmed the demand of Rs. 83,790/- raised for A.Y. 2013–14.

5. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

6. Before us, the Counsel for the assessee submitted Form No. 26A i.e. C.A. Certificate certifying that the payee / recipient of interest income has offered this interest income in it's return of income. The payees / recipients have taken into account the amount paid by the assessee under the head "income from other sources" in their respective returns of income. The Counsel for the assessee submitted that since the payees / recipients have already offered this income in their return of income, the assessee cannot be held to an assessee-in-default in terms of Section 201 and 201(1A) of the Act, since the income has already been offered to tax by the respective recipients / payees in their return of income. Further, the Counsel for the also submitted that the assessee was in receipt of Form 15GH/H from the recipients / payees and the same had also been deposited with the concerned Tax Authorities,

though there was admittedly a minor delay in filing of the same. Accordingly, the Counsel for the assessee submitted that in light of the above facts i.e. the recipients have already offered the interest payment made by the assessee in their respective returns of income (as evidenced by Form 26A) and also taking into consideration the fact that such delay in filing of Form 15G/H was only a small / minor technical default, this is not a fit that where the assessee should be levied with penalty and interest under Section 201/201(1A) of the Act.

7. In response, Ld. DR. placed reliance on the observations made by the CIT(A) and Assessing Officer in their respective orders.

8. We have heard the rival contentions and perused the material on record.

9. In the case of **Bhushan Logistics (P.) Ltd. vs. Income-tax-Officer [2022] 140 taxmann.com 521 (Mumbai - Trib.)**, the ITAT held that where assessee made payment of interest to non-banking financial corporations without deduction of tax at source and Assessing Officer disallowed interest under section 40(a)(ia), as **assessee submitted before Tribunal by way of additional evidence copies of Form No. 26A to prove that such NBFC had taken into account sum received as interest from assessee while computing its taxable income, issue was to be remanded to Assessing Officer for adjudication after verification of details submitted by way of additional evidence.**

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10. Accordingly, in light of the above decision, we are of the considered view that since the Counsel for the assessee has submitted additional evidence in the form of Form 26A in support of the fact that the recipient had duly offered the interest income in their respective return of income, we set-aside the matter to the file of Assessing Officer to verify the contents of CA Certificate in Form 26A submitted by the assessee before us. In case, it is found that the recipients / payees have duly offered the interest income in their respective returns of income, then in light of the above decisions, we are of the considered view that the assessee cannot be held to be an assessee-in-default and hence, the Assessing Officer is directed to give appropriate relief of the assessee.

11. In the result, the appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on

25/08/2025

Sd/-
(DR. BRR KUMAR)
VICE PRESIDENT

Ahmedabad; Dated 25/08/2025

TANMAY, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad