



सत्यमेव जयते

# IN THE INCOME TAX APPELLATE TRIBUNAL, RAIPUR BENCH, RAIPUR

BEFORE HON'BLE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

Sr	ITA No.	Asstt Yr	TAN	Appellant	Respondent
1	ITA 275/RPR/2025	2017-18	JBPS07664G	ITO (TDS), Bilaspur	SECL, Bilaspur
2	ITA 276/RPR/2025	2017-18	BPLS04886A	DCIT (TDS), Raipur	SECL, Bhatagaon Area Branch
3	ITA 277/RPR/2025	2017-18	JBPS00358B	DCIT (TDS), Raipur	SECL, Korba
4	ITA 278/RPR/2025	2017-18	JBPS00359C	DCIT (TDS), Raipur	SECL, Bilaspur
5	ITA 279/RPR/2025	2017-18	JBPS02072A	DCIT (TDS), Raipur	SECL, Raigarh
6	ITA 280/RPR/2025	2017-18	JBPS02667A	DCIT (TDS), Raipur	SECL, Kasmunda
7	ITA 281/RPR/2025	2017-18	JBPS03398D	DCIT (TDS), Raipur	SECL, Korba
8	ITA 282/RPR/2025	2017-18	JBPS02076E	DCIT (TDS), Raipur	SECL, Raigarh
9	ITA 283/RPR/2025	2017-18	JBPS02656D	DCIT (TDS), Raipur	SECL, Korba
10	ITA 284/RPR/2025	2017-18	JBPS03804D	DCIT (TDS), Raipur	SECL, Anuppur
11	ITA 285/RPR/2025	2017-18	JBPS06999G	DCIT (TDS), Raipur	SECL, Bilaspur
12	ITA 286/RPR/2025	2017-18	BPLS04697A	DCIT (TDS), Raipur	SECL, Korba
13	ITA 287/RPR/2025	2017-18	BPLS04875D	DCIT (TDS), Raipur	SECL, Korba
14	ITA 288/RPR/2025	2017-18	JBPS03090D	DCIT (TDS), Raipur	SECL, Korba
15	ITA 289/RPR/2025	2017-18	JBPS13157E	DCIT (TDS), Raipur	SECL, Korba
16	ITA 290/RPR/2025	2017-18	BPLS04617E	DCIT (TDS), Raipur	SECL, Surguja
17	ITA 291/RPR/2025	2017-18	JBPS00355F	DCIT (TDS), Raipur	SECL, Bilaspur
18	ITA 292/RPR/2025	2017-18	JBPS07658A	ITO(TDS), Bilaspur	SECL, Bilaspur, West JKD Colliery
19	ITA 293/RPR/2025	2017-18	BPLS04966D	ITO(TDS), Bilaspur	SECL, Bilaspur, Hasdeo Haldibadi
20	ITA 294/RPR/2025	2017-18	JBPS07660C	ITO(TDS), Bilaspur	SECL, Bilaspur, JKD, Sub Area, west JKD
21	ITA 295/RPR/2025	2017-18	JBPS07666B	ITO(TDS), Bilaspur	SECL, Bilaspur
22	ITA 296/RPR/2025	2017-18	JBPS07665A	ITO(TDS), Bilaspur	SECL, Bilaspur, Mines Rescue stations
23	ITA 297/RPR/2025	2017-18	JBPS11724G	ITO(TDS), Bilaspur	SECL, Bilaspur, Gharghoda
24	ITA 298/RPR/2025	2017-18	JBPS07569B	ITO(TDS), Bilaspur	SECL, Bilaspur, West JKD Colliery
25	ITA 299/RPR/2025	2017-18	JBPS07663F	ITO(TDS), Bilaspur	SECL, Bilaspur
26	ITA 300/RPR/2025	2017-18	JBPS07662E	ITO(TDS), Bilaspur	SECL, Bilaspur, West Jhaggrakhand
27	ITA 301/RPR/2025	2017-18	JBPS07667C	ITO(TDS), Bilaspur	SECL, Bilaspur, Hasdeo Area



Sr	ITA No.	Asstt Yr	TAN	Appellant	Respondent
28	ITA 197/RPR/2025	2017-18	JBPS07663F	SECL, CHM Manendragarh, Korea	ITO/ACIT/DCIT, (TDS), Bilaspur
29	ITA 198/RPR/2025	2017-18	JBPS07664G	SECL North JKD, Korea	ITO/ACIT/DCIT, (TDS), Bilaspur
30	ITA 199/RPR/2025	2017-18	JBPS07665A	SECL, MRS, Manendragarh	ITO/ACIT/DCIT, (TDS), Bilaspur
31	ITA 200/RPR/2025	2017-18	JBPS07666B	SECL, Anuppur	ITO/ACIT/DCIT, (TDS), Bilaspur
32	ITA 201/RPR/2025	2017-18	JBPS07667C	SECL, South JKD, Korea	ITO/ACIT/DCIT, (TDS), Bilaspur
33	ITA 202/RPR/2025	2017-18	BPLS04886A	SECL, Bhatagaon, Surguja	ITO/ACIT/DCIT, (TDS), Bilaspur
34	ITA 203/RPR/2025	2017-18	JBPS00359C	SECL, Korba(East) Area	ITO/ACIT/DCIT, (TDS), Bilaspur
35	ITA 204/RPR/2025	2017-18	JBPS00355F	SECL, SECL Bhawan, Bilaspur	ITO/ACIT/DCIT, (TDS), Bilaspur
36	ITA 205/RPR/2025	2017-18	BPLS04875D	SECL, Gevra Project, Korba	ITO/ACIT/DCIT, (TDS), Bilaspur
37	ITA 206/RPR/2025	2017-18	JBPS13157E	SECL, Dipka	ITO/ACIT/DCIT, (TDS), Bilaspur
38	ITA 207/RPR/2025	2017-18	JBPS02656D	SECL, CGM Office, Kusmunda	ITO/ACIT/DCIT, (TDS), Bilaspur
39	ITA 208/RPR/2025	2017-18	BPLS04617E	SECL, Surguja	ITO/ACIT/DCIT, (TDS), Bilaspur
40	ITA 209/RPR/2025	2017-18	JBPS02667A	SECL, Kusmunda	ITO/ACIT/DCIT, (TDS), Bilaspur
41	ITA 210/RPR/2025	2017-18	BPLS04966D	SECL, Raigarh	ITO/ACIT/DCIT, (TDS), Bilaspur
42	ITA 211/RPR/2025	2017-18	BPLS04697A	SECL, Bilaspur	DCIT(TDS), Raipur
43	ITA 212/RPR/2025	2017-18	JBPS11724G	SECL, Bilaspur	ITO(TDS), Bilaspur
44	ITA 213/RPR/2025	2017-18	JBPS03090D	SECL, Bilaspur	DCIT(TDS), Raipur
45	ITA 214/RPR/2025	2017-18	JBPS03804D	SECL, Bilaspur	DCIT(TDS), Raipur
46	ITA 215/RPR/2025	2017-18	JBPS06999G	SECL, Bilaspur	DCIT(TDS), Raipur
47	ITA 216/RPR/2025	2017-18	JBPS07658A	SECL, Bilaspur	ITO(TDS), Bilaspur
48	ITA 217/RPR/2025	2017-18	JBPS07662E	SECL, Bilaspur	ITO(TDS), Bilaspur
49	ITA 218/RPR/2025	2017-18	JBPS07660C	SECL, Bilaspur	ITO(TDS), Bilaspur
50	ITA 219/RPR/2025	2017-18	JBPS07659B	SECL, Bilaspur	ITO(TDS), Bilaspur
51	ITA 220/RPR/2025	2017-18	JBPS02072A	SECL, Bilaspur	DCIT(TDS), Raipur
52	ITA 221/RPR/2025	2017-18	JBPS02076A	SECL, Bilaspur	DCIT(TDS), Raipur
53	ITA 222/RPR/2025	2017-18	JBPS03398D	SECL, Bilaspur	DCIT(TDS), Raipur
54	ITA 223/RPR/2025	2017-18	JBPS00358B	SECL, Bilaspur	DCIT(TDS), Raipur



### **Appearances**

Assessee by: Mr Vinod kumar Khatri [Ld. AR']

Revenue by: Mr Saad Kidwai [Ld. DR']

Date of conclusive Hearing: 18/09/2025

Date of Pronouncement : 19/09/2025

### **ORDER**

#### **PER BENCH;**

The captioned bunch of first twenty-seven appeals of the Revenue and even number of cross appeals by the assessee challenges respective orders passed by Addl./Jt. Commissioner of Income Tax, Appeals-1, Gurugram [‘Ld. CIT(A)'] u/s 250 of the Income Tax Act, 1961 [‘the Act’] which in turn emanated out of separate orders passed u/s 201/201(1A) of the Act by Asstt./Dy. Commissioner of Income Tax(TDS), Raipur [‘Ld. AO’] all anent to assessment year 2017-18[‘AY’].

2. The common, limited & solitary question/issue dealt with in these appeals seeks to answer ‘*as to whether first appellate authority has a power to remand any issue for fresh adjudication to assessing officer where the order challenged in first appeal is passed otherwise than u/s 144 of the Act?*’



3. Since facts involved in this bunch of cross appeals and limited issue to be dealt herein is common & identical, on rival party's request these cross appeals for the sake of brevity & convenience are heard together for being disposed off by common & consolidated order. In adjudicating the former common issue/question we shall deal with Sr. 1 in ITA No 275/RPR/2025 as lead case and our adjudication laid hereinafter thus shall *mutatis-mutandis* apply to remaining cross appeals as tabulated & captioned hereinbefore.

4. **Briefly stated common facts of the case are that;**

**4.1** The assessee South Eastern Coalfields Limited, is Central Government's a Mini Ratna Unlisted Public Sector Company headquartered at Bilaspur, Chhattisgarh['SECL']. The assessee is primarily engaged in mining and production of Coal. The assessee being deductor of tax is responsible to collect and deduct tax at sources [TDS] under the provision of the Act. The assessee is regular in filing periodic TDS returns in prescribed Form No. 24Q, 26Q and 27EQ etc., in accordance with the



procedure laid down for the purpose under the Act. For the year under consideration the assessee maintained regular books & records and are as required u/s 44AA of the Act subjected to tax audit in terms of section 44AB of the Act.

**4.2** From the regular assessment order passed u/s 143(3) of the Act for AY 2017-18 it was observed that, for the year under consideration the assessee company debited to its profit & loss a/c a sum of ₹259.67Cr under the head '**Power & Township Expenses**' in respect of employees benefit expense and also debited an expense of ₹48.25 Cr. under the head '**Grant to Schools and Institutes**', and claimed such expenses as deduction 37(1) of the Act without making TDS deduction therefrom.

**4.3** In order to verify applicability of TDS provisions and consequential liabilities against such identified expenses claimed as deduction, a proposal was sent for approval u/s 133(6) of the Income Tax Act, which was approved vide letter F.



No. CIT(TDS)/BPL/133(6)/2023-24 dt 03/11/2023.

Accordingly, vide notice u/s 133(6) of the Act dt 06/11/2023 the assessee called upon to furnish full details of expenses incurred, debited and claimed as expenses under the head Power & Township expenses and Grant to Schools and Institutes.

**4.4** The details submitted during the course of proceedings by the assessee revealed to the Ld. AO that; while debiting former twin expenses or payment made there against and while claiming deduction there against the assessee company failed to deduct TDS therefrom. For the reasons the assessee, without prejudice any other consequence held as **assessee in default** in respect of such non-deduction deduction u/s 201(1) r.w.s. 192 r.w.s. 17 of the Act. In consequence thereof the Ld. AO determined the liability u/s 201(1) and 201(1A) of the Act separately in relation to twenty-seven (27) Tax Deduction Account Number[“TAN”] held by the assessee for various location as under;



Sr	TAN	Details of Assessment Order passed u/s 201 of the Act			
		Date	Penalty/ Tax levied u/s 201 of the Act	Interest levied 201(1A) of the Act	Total Demand
1	JBPS07663F	28/03/2024	49,03,952	41,19,319	90,23,271
2	JBPS07664G	28/03/2024	49,03,952	41,19,319	90,23,271
3	JBPS07665A	28/03/2024	49,03,952	41,19,319	90,23,271
4	JBPS07666B	28/03/2024	49,03,952	41,19,319	90,23,271
5	JBPS07667C	28/03/2024	49,03,952	41,19,319	90,23,271
6	BPLS04886A	27/03/2024	2,88,78,698	2,42,58,106	5,31,36,804
7	JBPS00359C	27/03/2024	3,63,69,242	3,05,50,163	6,69,19,404
8	JBPS00355F	27/03/2024	1,09,68,300	92,13,372	2,01,81,672
9	BPLS04875D	27/03/2024	33,73,869	28,34,050	62,07,919
10	JBPS13157E	27/03/2024	33,73,869	28,34,050	62,07,918
11	JBPS02656D	27/03/2024	1,41,27,187	1,18,66,837	2,59,94,024
12	BPLS04617E	27/03/2024	3,75,20,982	3,15,17,625	6,90,38,607
13	JBPS02667A	27/03/2024	1,41,27,188	1,18,66,838	2,59,94,025
14	BPLS04966D	30/03/2024	37,64,587	31,62,252	69,26,839
15	BPLS04697A	27/03/2024	2,79,14,729	22,80,371	49,95,101
16	JBPS11724G	30/03/2024	37,64,587	31,62,252	69,26,839
17	JBPS03090D	27/03/2024	27,14,729	22,80,371	49,95,101
18	JBPS03804D	27/03/2024	53,27,481	44,75,084	98,02,565
19	JBPS06999G	27/03/2024	53,27,481	44,75,084	98,02,565
20	JBPS07658A	28/03/2024	49,03,952	41,19,319	90,23,271
21	JBPS07662E	28/03/2024	49,03,952	41,19,319	90,23,271
22	JBPS07660C	28/03/2024	49,03,952	41,19,319	90,23,271
23	JBPS07659B	28/03/2024	49,03,952	41,19,319	90,23,271
24	JBPS02072A	27/03/2024	37,64,587	31,62,252	69,26,839
25	JBPS02076A	27/03/2024	37,64,587	31,62,252	69,26,839
26	JBPS03398D	27/03/2024	2,99,83,780	2,51,86,375	5,51,70,156
27	JBPS00358B	27/03/2024	1,41,27,188	1,18,66,838	2,59,94,025



**4.5** Aggrieved assessee filed separate appeals against each of such twenty-seven (27) orders passed u/s 201 of the Act, which were partly allowed by the Ld. CIT(A) vide order dt. 28/02/2025. Against such separate orders of Ld. CIT(A), both the rival parties came in present bunch of cross appeals.

5. Without touching merits, we have heard the rival party's common submission and argument on the limited issue of jurisdiction of first appellate authority in sparingly remanding common issues assailed by the assessee in ground 2c, 2d & 2e in Form No 35 and subject to rule 18 of ITAT-Rules, 1963 perused the material placed on record and considered the facts in view of settled position of law which was forewarned to respective parties.

**Lead Case : ITA No. 275/RPR/2025**

6. As we note that, against the DIN & Order No. ITBA/COM/F/17/2023-24/1063568142(1) dt. 28/03/2024 passed u/s 201 of the Act, the assessee filed an appeal before Ld. CIT(A) on 14/04/2024 on as many as four grounds. While



adjudicating ground number 2 relating to non-deduction of TDS in respect of Power and Township Expenses, the Ld. CIT(A) dealt with the submissions of the assessee and dismissed sub ground number 2(a), 2(b), 2(f) & 2(h) and whereas remaining connected sub grounds viz; 2(c), (d) & 2(e) sparingly returned to the file of Ld. AO with a direction to verify issues on merits and allow the relief after due verification. As jointly solidified by the rival parties, these sub grounds (a) to (h) of ground 2 assailed in first appeal before the Ld. CIT(A) were indisputably not only intrinsically but also interictally linked with each other.

7. As we note that, the order appealed in section 264A of the Act before the Ld. CIT(A) for adjudication was the one which was passed u/s 201 of the Act and not u/s 144 of the Act. Therefore, we have to vouch as to whether the Ld. CIT(A) had jurisdiction or power u/s 251 of the Act to remand any issue, ground or sub-ground to the file of Ld. AO for verification & granting relief where the order was not the one passed *ex-parte* u/s 144 of the Act.



8. Without reproducing loose, stock & barrel of provisions of section 251(1)(a) of the Act, it shall suffice to state that, the bare/plain reading of provision clearly suggest that w.e.f. 01/10/2024 the first appellate authority is not vested with jurisdiction to remand any issue/subject or file back to the assessing officer for fresh or de-novo verification where order assailed in appeal is passed otherwise than u/s 144 of the Act. Therefore, in case where the order appealed against in first appeal is passed otherwise than 144 of the Act, any action/direction of remand for fresh verification by the first appellate authority is therefore barred by jurisdiction.

9. The validity of action of the tax and appellate authorities which does not confirm with the provisions of statute came for consideration before the Hon'ble Supreme Court in *Chandra Kishore Jha Vs Mahavir Prasad* [1999, 8 SCC 266 (SC)], wherein their hon'ble lordships held that '*if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner*'.



10. In the present case, since the statute did provide no power to remand where the order appeal against was passed u/s 201 of the Act the first appellate authority therefore in view of former decision, the impugned remittance of sub-ground (c), (d) & (e) for verification of facts on merits a fresh directed by the Ld. CIT(A) finds no place in the statute. Since such direction remand is devoid of provisions of section 251(1)(a) of the Act, therefore deserves to be vacated. We say so, because erstwhile provisions of section 251(1) of the Act which was in force up to 30/09/2024 did not permit the first appellate authority to remand any issue or ground to the file of assessing officer at all. *Au contraire* the said provision obligated the first appellate authority to culminate first appeal conclusively either by confirming, reducing, enhancing or annulling the order appealed against. The proviso to clause (a) of s/s (1) of section 251 of the Act inserted by the Finance Act 2024 which came into effect 01/10/2024 however empowered the first appellate authority for referring an issue/file back to the assessing officer for *de-novo* assessment but only in cases where the assessment order appealed against



was framed *ex-parte* u/s 144 of the Act and not otherwise. That is to say the newly inserted proviso to clause (a) to s/s (1) of section 251 of the Act, while empowering first appellate authority to remand an issue or a file to assessing officer for verification a fresh has also attached invariable restriction on its operation. As such power to remand is operable only when the order assailed for adjudication in first appeal is framed u/s 144 of the Act.

11. The amended provision of section 251(1)(a) of the Act w.e.f. 01/10/2024 clearly but inversely restricts the jurisdiction of first appellate authority in remanding any issue/file to assessing officer for fresh assessment. Going by stricter application / interpretation of law as laid by the Hon'ble Supreme Court in '*State of Uttar Pradesh Vs Koreas India Ltd.*' reported in AIR 1977 SC 132 and further in the landmark case of '*Dilip Kumar Vs CCE*' reported 9 SCC 1 we are mindful to hold that, while dealing with the first appeals unless the order under challenge before the first appellate authority order is framed *ex-parte* by the assessing officer u/s 144 of the Act, any action of remanding any subject,



issue, ground or sub ground or file (as the case may be), for verification or reverification a fresh to the assessing officer shall be beyond the jurisdiction of section 251(1)(a) of the Act.

12. Further insofar as the validity of remand ordered and impugned direction/action of Ld. CIT(A) dealing with sub-grounds variably where all other sub-grounds of main ground number 2 are intrinsically interconnected, interwoven and linked, we are mindful to note that on the similar issue the Ld. co-ordinate bench in '*Computer Science Corp. India (P) Ltd. Vs DCIT*' [2024, 163 taxmann.com 693] held that order dismissing all ground commonly based on single issue by disobeying the mandates of s/s (6) of section 250 of the Act ceases to be lawful adjudication, therefore renders itself irregular. Thus, such adjudication is a fit case for remand.

13. Admittedly the impugned action of remand of few sub-grounds which where interconnected with remaining sub-grounds adjudicated conclusively by the Ld. CIT(A) are not only inconsonance with provisions of law but such action also out



done the restriction placed by proviso to clause (a) of s/s (1) of section 251 of the Act. The first appellate authority being creature of statutory therefore while exercising the powers conferred under the provisions of law in discharging prescribed function was bound to act within the jurisdiction. In remanding few sub-grounds in relation to order assailed in our considered view the Ld. CIT(A) inadvertently assumed the powers not granted by the provisions of section 251(1)(a) of the Act.

14. Any action, direction or adjudication laid by the appellate authority by travelling beyond the provisions of law or authority by law renders otiose for the purpose of the Act. This view finds fortified in the judgement of Hon'ble Gujarat High Court rendered in the case of '*Gujarat Mineral Development Corporation Ltd. Vs ITAT* [2009, 314 ITR 14 (Guj.)]. In this case while dealing with the powers of ITAT, their Hon'ble lordships have categorically held that, in adjudicating the matter in appeals the authority cannot travel beyond the provisions of law. Thus, such action is barred by jurisdiction and therefore stands vacated.



15. In the present case, the order challenged before the Ld. CIT(A) was an order passed u/s 201 of the Act and as such other than the order passed *ex-parte* u/s 144 of the Act. Therefore the Ld. CIT(A) had no jurisdiction to remand any issue/ground or sub-ground of the first appeal to the file of Ld. AO for verification or reverification of merits a fresh. *Per contra*, the sub-ground (c), (d) & (e) of ground number 2 raised in Form No 35 before Ld. CIT(A) not only remained unadjudicated conclusively in terms of section 251(1)(a) of the Act but remanded to Ld. AO for *de-novo* verification on merits in contravention of provision of section 251 of the Act.

16. In view of the former judicial precedents, we are of considered opinion that, the *impugned action relating to adjudication of sub-ground (c), (d) & (e) of ground number 2* suffered from jurisdiction as well as the compliance of s/s 251(1) r.w.s. 250(6) of the Act, for that reason without disturbing balance adjudication we set aside the remand to the file of Ld. CIT(A) with a point-blank direction to dealt sub-ground (c), (d) &



(e) of ground number 2 of Form No. 35 and adjudicate them *de-novo* in accordance with law and for passing a speaking order. The Ground No 1 & 2 of the present appeal of the Revenue thus stands partly allowed for statistical purposes. On a similar line all remaining appeals filed by the Revenue also stands partly allowed for statistical purposes in above terms. In consequence our adjudication in Revenue's appeal, all cross appeals filed by the assessee for the sake of completeness are also stands partly allowed for statistical purposes in above terms. The question framed hereinbefore stands adjudicated negatively.

**17. In result, this bunch of cross appeals stands PARTLY ALLOWED FOR STATISTICAL PURPOSES in aforesaid terms.**

In terms of rule 34 of ITAT Rules, 1963, the order pronounced in the open court on date mentioned herein before.

**-S/d-**

**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

Panaji/Dt: 19th September, 2025.

**Copy of the Order forwarded to:**

- |                   |                           |
|-------------------|---------------------------|
| 1. The Appellant. | 2. The Respondent.        |
| 4. PCIT Concerned | 5. DR, ITAT, Raipur Bench |

**-S/d-**

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

- |                              |
|------------------------------|
| 3. The CIT(A)/NFAC Concerned |
| 6. Guard File                |

//True Copy//

By Order,  
Sr. Private Secretary / AR ITAT, Raipur