

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, MUMBAI**

**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.3797/MUM/2025 ITA No.3798/MUM/2025
(Assessment Year: 2015-2016) (Assessment Year: 2016-2017)
&
ITA No.3796/MUM/2025 ITA No.3795/MUM/2025
(Assessment Year: 2017-2016) (Assessment Year: 2019-2020)**

CEVA Logistics India Private Limited

12th Floor, E-Wing, Times Square,
Andheri-Kurla Road, Andheri (East),
Marol Naka, Mumbai - 400059 Maharashtra.
[PAN:AABCT7326A]

..... **Appellant**

Vs

**Income Tax Officer (TDS) 1(1)(4),
Mumbai**

MTNL Building, Cumballa Hill, Grant Road (W)
Mumbai – 400026. Maharashtra

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Bhavesh Mehta
For the Respondent/Department : Shri Virabhadra Mahajan

Date

Conclusion of hearing : 03.09.2025
Pronouncement of order : 22.09.2025

ORDER

Per Bench:

1. These are four appeals preferred by the Assessee challenging the order passed under Section 201(1)/201(1A) of the Income Tax Act, 1961 (hereinafter referred to as 'the **Act**') in respect of financial years relevant to the Assessment Years 2015-2016, 2016-2017, 2017-2018 and 2019-2020.

ITA No.3797/Mum/2025 [Assessment Year 2015-2016]

2. With the consent of both the sides we will take appeal pertaining to Assessment Year 2015-2016 as the lead matter. The said appeal

has been preferred by the Assessee against the Order, dated 15/03/2025, passed by the Additional/Joint Commissioner of Income Tax (Appeals), Kochi [hereinafter referred to as the '**CIT(A)**'], whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against the Order, dated 20/02/2020, passed under Section 201(1)/201(1A) of the Act for the Financial Year 2014-2015 relevant to the Assessment Year 2015-2016.

2.1. The Assessee has raised following grounds of appeal in ITA No.3797/Mum/2025 [Assessment Year 2015-2016] :

1. Ground No.1 – Order passed in violation of the principles of natural justice:

On the facts and in the circumstances of the case and in law, the Learned ADDL/JCIT (A) has erred in passing the order under Section 250 of the Act without providing a reasonable opportunity of being heard. The Appellant's adjournment request dated October 21, 2023, was neither responded to nor rejected, and no further notice of hearing was issued thereafter. The order was passed without any show cause or final communication, resulting in a breach of natural justice.

2. Ground No.2 – Erroneous treatment of Appellant as an 'assessee in default':

On the facts and circumstances of the case and in law, the Learned ADDL/JCIT (A) erred in upholding the TDS Order and in not appreciating the fact that year-end provisions of expenses on estimated basis made in the books of account for accounting purposes is not liable for deduction and deposit of TDS. The Learned TDS Officer failed to consider the material submissions made during the course of proceedings before Learned TDS Officer.

3. Ground No.3 – Denial of allowance of TDS deducted and deposited in subsequent year and consequential interest impact:

On facts and circumstances of the case and in law, the Learned ADD/JCIT(A) erred in upholding the TDS Order and thereby failed to consider the fact that the tax was deducted and deposited in the subsequent year and were adjusted against the above provision for expenses.

4. Ground No.4 – Incorrect period of levy of interest

on late deduction of TDS:

On the facts and circumstances of the case and in law, the Learned ADDL/JCIT(A) has erred in upholding the TDS Order passed by the Learned TDS Officer wherein the interest on late deposit of TDS is computed from the beginning of the previous year (April 01, 2014) till February 2020. Thus, in first place the Appellant was not liable to deduct TDS on year end provision expense and reported the same as disallowance in tax audit report. Without prejudice to this, the Learned ADDL/JCIT(A) failed to consider the fact that these provisions were created on the last day of financial year, the amount of interest should be calculate from end of financial year and not beginning of the year.

5. Ground No.5 – Initiation of Penalty Proceedings under Section 271C of the Act:

On the facts and circumstances of the case and in law, the Appellant submits that no penalty under Section 271C of the Act ought to be levied in view of the merits of the Appellant's case as set out in the above grounds."

3. The relevant facts in brief are that the Assessee is the private limited company. A survey under Section 133A (2A) of the Act was conducted at the premises of the Assessee on 03/01/2020 to verify the compliance of tax withholding provisions. During the course of survey it was found that certain payments were made by the Assessee without deduction of tax at source and therefore, show cause notice, dated 09/01/2020, was issued requesting the Assessee to explain as to why the Assessee should not be treated as an 'Assessee in Default' in terms of Section 201(1)/201(1A) of the Act in respect of aforesaid payments aggregating to INR.4,72,86,283/-. In response, the Assessee filed details/reply, after considering the same the Assessing Officer concluded that Assessee had defaulted in complying with provisions of the Act by not deducting tax at source from the payments under consideration. Treating the Assessee as an 'Assessee in Default' within the meaning of Section 201(1) of the Act for non-deduction of tax at source, demand of INR.24,91,014/- under Section 201(1) of the Act alongwith interest of INR.17,68,620/- under Section 201(1A) of the Act was raised upon

the Assessee.

4. Being aggrieved, against the aggregate demand of INR.42,59,634/- raised upon the Assessee, an appeal was preferred by the Assessee before the Ld. CIT(A). The aforesaid appeal was dismissed by Ld. CIT(A) on account of non-prosecution of the appeal since the Assessee had failed to furnish reply/details in response to five notices of hearing issued by the Ld. CIT(A).
5. Being aggrieved, the Assessee has preferred the present appeal before the Tribunal on the grounds reproduced at Paragraph 2 above.
6. We have heard both the sides and have perused the material on record.
7. On perusal of impugned Order, we find that the Ld. CIT(A) has dismissed the appeal on the ground that no response was received from the Assessee and observing that the Assessee had no case on merits since no corroborating documents/details were filed by the Assessee. The Assessee had failed to substantiate the claim made in the appeal. On perusal of Paragraph 5.2 of the Impugned Order, we find that the Assessee had requested for adjournments for three hearings. During the course of hearing Assessee had filed affidavit affirming that the Assessee-Company was merged with CEVA Freight India Private Limited pursuant to the order of the Hon'ble National Company Law Tribunal (NCLT), dated 09/11/2017, (with effect from 01/04/2016). On account of the said merger the tract of appellate proceedings was lost. The new management did not have information/record readily available. Since the employees also did not have complete knowledge about the appellate proceedings, proper representation could not be made before the Ld. CIT(A). Though the Assessee had requested for time, the CIT(A) dismissed the appeal rejecting the request for adjournment. The submissions

made by the Assessee are supported by the order passed by the NCLT and the same has not been disputed by the Revenue. On perusal of the order impugned, we find that since no documents/details were furnished by the Assessee, the CIT(A) dismissed the appeal on account of non-prosecution and confirmed the order passed by the Assessing Officer on merits. During the course of hearing, it was submitted on behalf of the Assessee that the Assessee had good case on merits since the disallowance made by the Assessing Officer pertained to entries booked in one year and reverse in subsequent year. However, this aspect could not be explained before the Ld. CIT(A) on account of non-availability of relevant documents. Opposing the aforesaid submission, the Learned Departmental Representative had submitted that the Assessee was granted sufficient opportunities by the CIT(A). The Assessee kept taking adjournments and did not place on record any submission/details to support its contentions. Therefore, the CIT(A) was justified in dismissing the appeal. Taking into consideration the submissions advanced by both the sides and keeping view the facts & circumstances of the present case, we deem it appropriate and in the interest of justice to grant Assessee another opportunity to make out a case on merits. Accordingly, we set aside the Order, dated 15/03/2025, passed by the Ld. CIT(A) and restore the issue back to the file of the CIT(A) with the directions to adjudicate the appeal afresh after granting the Assessee a reasonable opportunity of being heard. The Assessee directed to co-operate in the appellate proceedings and forthwith file details, documents & submission in support of its claims/contentions before the CIT(A). The CIT(A) is directed to consider the same as per law. It is clarified that in case the Assessee fails to enter appearance and/or fails to file details/documents/submission in response to notice of hearing issued by the CIT(A), the CIT(A) shall be at liberty to decide the issues on merits on the basis of material on record. Since, we have

not adjudicated the issues raised on merits, all the rights and contentions of both the sides are left open. In terms of the aforesaid, the Ground No.1 raised by the Assessee is treated as allowed for statistical purposes, while all other grounds are dismissed as having been rendered infructuous.

8. In terms of Paragraph 7 above, the Grounds raised by the Assessee for the Assessment Year 2015-2016 is treated as allowed for statistical purposes.

ITA No.3798/Mum/2025 [Assessment Year 2016-2017]
ITA No.3796/Mum/2025 [Assessment Year 2017-2018] &
ITA No.3795/Mum/2025 [Assessment Year 2019-2020]

9. These are three appeals preferred by the Assessee against three separate Orders, each dated 15/03/2025, passed by the CIT(A) whereby the Ld. CIT(A) had dismissed the appeal of the Assessee against three separate Orders, each dated 20/02/2020, passed under Section 201(1)/201(1A) of the Act for the financial years relevant to the Assessment Year 2016-2017, 2017-2018 and 2019-2020.
10. During the course of hearing both the sides had agreed that our finding/adjudication on the grounds raised in appeal for the Assessment Year 2015-2016 shall apply mutatis mutandis to grounds raised in appeal for the Assessment Year 2016-2017, 2017-2018 and 2019-2020. Thus, keeping in view identical facts and circumstances, and adopting the reasoning given while adjudicating ITA No.3797/Mum/2025 [Assessment Year 2015-2016] hereinabove, we proceed to adjudicate the ground raised in the present appeal. Accordingly, Ground No. 1 raised in each of the appeals is treated as allowed for statistical purposes while the all the other grounds are dismissed as having been rendered infructuous.
11. In terms of Paragraph 9 above, the Grounds raised by the Assessee

for the Assessment Year 2016-2017, 2017-2018 and 2019-2020 are treated as allowed for statistical purposes.

12. In result, the all the appeal preferred by the Assessee are treated as allowed for statistical purposes.

Order pronounced on 22.09.2025.

Sd/-
(Vikram Singh Yadav)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 22.09.2025
Milan, LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai