

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench, Visakhapatnam

Before Shri Ravish Sood, Judicial Member
and
Shri Balakrishnan S., Accountant Member

आ.अपी.सं /**ITA Nos. 382 & 383/Viz/2025**
(निर्धारण वर्ष/Assessment Years: 2014-15 & 2015-16)

State Bank of Hyderabad (Presently merged with State Bank of India), South Central Railway Branch, Near Railway Station, Vijayawada- 520001. PAN: AAACS8577K	Vs.	The Income Tax Officer (TDS), TDS Ward-1, Vijayawada.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:		Smt. Venkata Suseela, Advocate (for Sri M.V. Prasad, CA)
राजस्व द्वारा/Revenue by:		Dr. Aparna Villuri, Sr. AR
सुनवाई की तारीख/Date of Hearing:		07/10/2025
घोषणा की तारीख/Date of Pronouncement:		10/10/2025

आदेश / ORDER

PER. RAVISH SOOD, JM :

The captioned appeals filed by the assessee-bank are directed against the respective orders passed by the Additional/Joint Commissioner of Income Tax (Appeals), Mysore,

dated 27/12/2024, which in turn arise from the consolidated order passed by the AO, inter alia, for the subject Assessment Years i.e., AY 2014-15 and AY 2015-16, dated 19/03/2018. As common issues are involved in the captioned appeals, therefore, the same are being taken up and disposed of vide a common order.

2. We shall first take up the appeal filed by the assessee-bank for AY 2014-15 in ITA No. 382/Viz/2025. The assessee has assailed the impugned order on the following grounds of appeal before us:

- “1. The order passed by the Learned CIT (Appeals) is against the law as well as on the facts of the case.
2. On the facts and circumstances of the case, the Leaned CIT(Appeals) is not justified in sustaining the demand raised u/s.201(1) and 201(1A) to the extent of Rs.13,19,723
3. On the facts and circumstances of the case, the Learned CIT(Appeals) considered that the Appellant has in fact obtained declarations in Form 15G/H from the depositors and there is no default committed by the appellant. He would have appreciated that the appellant is not competent to verify the correctness of such declarations furnished by such depositors.
4. On the facts and circumstances of the case, the Learned CIT(Appeals) ought to have appreciated that the appellant has in fact obtained Form No.15G/H from all the depositors and did not make any TDS in the case of depositors who have filed such forms with a bonafide belief that they do not have any income received during the relevant previous year exceedings the taxable limit.

5. the appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal.”

3. Succinctly stated, the assessee-bank was subjected to an inspection on 20/08/2015, to verify the reasons for the drastic decrease in the remittances of tax deducted at Source (TDS) by the assessee-bank for the subject year i.e., AY 2014-15 as compared to that of the preceding years.

4. During the course of the proceedings, the survey team came across certain discrepancies regarding the compliance by the assessee-bank of the provisions regulating the deduction of tax at source under Section 192 and Section 194A of the Act.

5. Thereafter, the AO vide his order passed U/ss. 201(1) and 201(1A) of the Act, dated 19/03/2018, after considering the explanation of the assessee on the aforesaid issues held it as an assessee-in-default' on both the said counts, viz., (i) failure/ short fall of deduction of tax at source on the salary paid to the employees under Section 192 of the Act; and (ii) failure/short fall of deduction of tax at source on the interest paid on deposits. Accordingly, the

AO, based on his deliberations in his order passed U/ss. 201(1) and 201(1A) of the Act, dated 19/03/2018, held the bank as an assessee-in-default for the subject year, i.e., AY 2014-15 and raised a demand aggregating to Rs. 61,96,072/- viz., (i) tax liability U/s. 201(1) of the Act: Rs. 41,86,535/-; and (ii) interest U/s. 201(1A) of the Act: Rs. 20,09,537/-.

6. Aggrieved, the assessee carried the matter in appeal before the CIT(A).

7. The CIT(A), in the course of the appellate proceedings, called for a remand report from the AO. In compliance, the AO had filed a remand report, dated 27/02/2020, wherein, after considering the fresh/additional evidence filed by the assessee before the CIT(A), i.e., "Form 15G" and "Form 15H", and considering the requisite information that was filed by the assessee in the course of the remand proceedings before him, the demand that was originally raised order passed U/ss. 201(1) and 201(1A) of the Act, dated 19/03/2018 of Rs. 61,96,072/- was reduced by him to an amount of Rs. 13,19,723/-. The CIT(A) considered the remand report, dated

27/02/2020, filed by the assessee, and, going by the observation of the AO, revised the demand raised against the assessee to an amount of Rs. 13,19,723/- and, thus, partly allowed the appeal.

8. The assessee-bank aggrieved by the order of the CIT(A) has carried the matter in appeal before us.

9. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home her contentions.

10. Smt. Venkata Suseela, Advocate, the Learned Authorized Representative for the assessee bank, at the threshold of hearing of the appeal, submitted that there is a delay of 102 days in filing the present appeals before the Tribunal. Elaborating on the reasons relating to the delay, the Ld. AR submitted that the same had occasioned for the reason that the order passed by the CIT(A) disposing of the appeals was dropped in the email ID of the earlier Manager/Officer of the assessee-bank, and the same did not come

to the notice of the existing Manager/Officer concerned. The Ld. AR to support her aforesaid contention had taken us through the application filed by the assessee-bank seeking condonation of the delay involved in filing the present appeal. The Ld. AR submitted that as the assessee had for *bonafide* reasons delayed the filing of the present appeals, therefore, the same in all fairness be condoned.

11 Per contra, the Learned Departmental Representative (for short, "D.R") objected to the seeking of the condonation of the delay involved in filing of the present appeals by the assessee bank.

12. We have heard the Learned Authorized Representatives of both parties on the issue of the delay involved in filing the present appeals. Although we are clear in our mind that an appellant ought to be vigilant regarding filing of the appeal within the prescribed time limit contemplated under law, but, at the same time, cannot remain oblivion of certain compelling circumstances which, for bonafide reasons, could lead to a delay in filing the appeal. We are of the view that, as in the present case before us, there are

justifiable reasons leading to the delay of 102 days in filing the appeals by the assessee bank, therefore, the same merits to be condoned. Our aforesaid view is supported by the recent decision of the **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal vs. The Income Tax Officer, Ward-2, Ambikapur in Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31st January, 2025**. The Hon'ble Apex Court while setting aside the order of the Hon'ble High Court of Chhattisgarh, that had approved the declining of the condonation of delay of 166 days by the Income Tax Appellate Tribunal, Raipur Bench, had observed, that a justice oriented and liberal approach should be adopted while considering the application filed by an appellant seeking condonation of the delay involved in filing the appeal.

13. Smt. Venkata Suseela, Advocate, the Learned Authorized Representative (for short "Ld. AR") for the assessee, at the threshold of hearing of the appeal, submitted that both the lower authorities had grossly erred in law and facts of the case in treating the assessee as being in default even for the amounts for which no liability was cast upon it to deduct tax at source. Elaborating on her

contention, the Ld. AR submitted that the aforesaid default on the part of the lower authorities was multi-facet, viz., (i) that the authorities below while quantifying the liability of the assessee bank for deduction of tax at source, had failed to exclude the interest that was paid by the assessee-bank to exempted organizations; (ii) that the authorities below had failed to take cognizance of the total declarations that were filed by the depositors in “Form 15G” and “Form 15H”; (iii). that the authorities below, while quantifying the liability of the assessee to deduct tax at source, had failed to reduce the amount of tax that was regularly remitted by the bank during the subject year. ; and (iii) that the authorities below, while treating the bank as an assessee-in default for the failure/shortfall of deduction of tax at source on the salaries paid to its employees, had wrongly fastened upon it the liability for deduction of tax at source even on that part of the salaries of its employees when they were rendering their services with some other branch. The Ld. AR submitted that the assessee, during the course of the proceedings before the CIT(A), had uploaded/filed its written submissions on 25/01/2021, wherein it had brought the aforesaid material aspects that had a

strong bearing on the determination of the assessee's liability U/ss. 201(1) and 201(1A) of the Act to the notice of the CIT(A), but the latter had failed to take cognizance of the same and had merely gone by the remand report, dated 27/02/2020, that was filed by the AO with him. The Ld. AR to buttress her aforesaid contention had taken us through the written submission/reply that was uploaded by the assessee bank with the CIT(A) on 25/01/2021, vide Document Reference ID: ITBA/NFAC/F/APL-1/2020-21/1029606836(1) (copy placed on record). Apart from that, the Ld. AR had filed before us a "Chart", based on which, it was claimed that the assessee could not be held as being in default for the deduction of tax at source (TDS) of Rs. 15,711/- on the salaries paid to its three employees, i.e., on their respective salaries for the period they were employed with another branch. The Ld. AR based on her aforesaid contention, submitted that the matter in all fairness be set-aside to the file of the CIT(A) with a direction to re-adjudicate the issue after taking cognizance of the aforesaid material facts which he had failed to consider in the course of the original proceedings, and pass a fresh

order after affording a fair opportunity of being heard to the assessee-bank.

14. Per contra, Dr. Aparna Villuri, the Learned Departmental Representative (for short, "Ld. DR"), relied on the orders of the lower authorities. The Ld. DR submitted that as the CIT(A) had after considering the aforesaid facts already reduced the liability of the assessee-bank for which it was held as an assessee-in-default for not having deducted tax at source as required per the mandate of Section 192 and Section 194A of the Act to an amount of Rs. 13,19,723/-, therefore, no infirmity emerges from his order.

15. We have thoughtfully considered the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the lower authorities. At the threshold, we may herein observe that there is substance in the Ld. AR's claim that the written submissions/reply/response that was filed/uploaded by the assessee bank with the CIT(A) on 25/01/2021 vide Document Reference ID: ITBA/NFAC/F/APL-1/2020-21/1029606836(1), had not been considered by him while

disposing of the appeal. We say so, for the reason that the CIT(A) had nowhere in his order referred to the aforesaid claim of the assessee bank, viz., (i) that the AO vide his remand report, dated 27/02/2020 had failed to consider an amount of Rs. 9,66,572/- that was regularly deducted by the bank and, thus, it should not be held as an assessee-in-default' to the said extent; (ii) that the AO had wrongly held the assessee bank as being an assessee-in-default for failure to deduct tax at source on that portion of the salaries that its employees had received during that part of the year when they were rendering their services with another branch.

16. Although it is a matter of fact discernible from the record, that though the AO vide his order passed U/ss. 201(1) and 201(1A) of the Act, dated 19/03/2018, had raised a demand aggregating to Rs. 61,96,072/- (supra), but thereafter, he, while restricting the said demand, vide his remand report dated 27/02/2020, had taken the base figure (of the demand raised U/ss. 201(1)/201(1A) of the Act) at Rs. 51,42,720/-. We, though, at the first blush, were of the view that as the difference /variance between the amount of demand raised by the A.O vide his original order U/ss. 201(1)/201(1A) of the

Act and that adopted by him vide his remand report, dated 27/02/2020, i.e., Rs. 10,53,352/- [Rs. 61,96,072 (minus) Rs. 51,42,720] was for the reason that he had reduced the said amount by the amount of tax deducted at source (TDS) that it had claimed to have regularly remitted during the year in respect of the aforesaid payments, i.e., salary and interest payment, but we were unable to reconcile the said difference/variance. On the one hand, the impugned difference between the original demand raised by the AO, vide his order passed under Sections 201(1)/201(1A) of the Act as against that adopted by the AO in his remand report, dated 27/02/2020, worked out at Rs. 10,53,352/- (supra), but the impugned discrepancy pointed out the Ld. AR aggregates to an amount of Rs. 9,82,283/-, viz. (i). the amount of tax deducted at source (TDS) which the assessee claims that it had regularly remitted during the subject year but had not been considered by the AO/CIT(A) while treating it as an assessee-in-default: Rs. 9,66,572/-; and (ii). tax deducted at source (TDS) on salaries for which it could not have been held as an assessee-in-default: Rs.

15,711/-, therefore, due to the said mismatch, we are unable to reconcile the said variance/ difference.

17. Be that as it may, we are of the firm conviction that as there is substance in the Ld. AR's claim that the aforesaid material aspects had not been considered by the CIT(A) while disposing of the appeal, despite that the assessee had brought the same to his notice vide its response uploaded on 25/01/2021 vide Document Reference ID: ITBA/NFAC/F/APL-1/2020-21/1029606836(1), as there whisper in the CIT(A)'s order on the aforesaid claim of the assessee much the less rebuttal of the same, therefore, we are unable to persuade ourselves to concur with the observations that he had arrived at by simply going by the remand report, dated 27/02/2020 that was filed by the AO before him.

18. We, thus, are of a firm conviction that in all fairness and in the interest of justice, the matter requires to be restored to the file of the CIT(A) with a specific direction to consider the aforesaid claim of the assessee (as was brought on record vide its response/reply uploaded on 25/01/2021 and redecide the appeal. Needless to say,

the CIT(A) shall in the course of the set-aside proceedings, afford a reasonable opportunity of being heard to the assessee bank, which shall remain at liberty to substantiate its claim based on fresh documentary evidence, if any, as per the extant law.

19. Resultantly, the appeal filed by the assessee bank is allowed for statistical purposes in terms of our aforesaid observations.

ITA No. 383/Viz/2025
(AY: 2015-16)

20. We shall now take up the appeal filed by the assessee bank for the AY 2015-16.

21. At the threshold, we may herein observe that as the facts and the issue involved in the captioned appeal remain the same as was there before us in the assessee's appeal for the immediately preceding year i.e., AY 2014-15 in ITA No. 382/Viz/2025, therefore, our order therein passed shall apply *mutatis mutandis* for the purpose of disposing of the present appeal.

22. At the same time, we may herein observe that though it is the Ld. AR's claim that a reply, alike the one that was uploaded with the CIT(A) on 25/01/2021 in the case of the assessee bank for AY

2014-15, was also uploaded for the subject year, i.e., AY 2015-16, but the same has not been placed on our record. However, the Ld. AR had filed before us the details of the tax deducted at source (TDS) of Rs. 1,52,171/- on payment of salaries, on which it claims that it could not be held as an assessee-in-default for the same reason as has been deliberated by us at length in the aforesaid appeal. Considering the aforesaid facts, we herein direct the CIT(A) to verify the claim of the assessee that it had uploaded/submitted a response/reply in the course of the proceedings before him for the subject year i.e., AY 2015-16, and in case the same is found in order, then, adjudicate the issue on the same terms as has been directed by us while disposing of the assessee's appeal for the AY 2014-15.

23. In the result, both the appeals of the assessee bank are allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 10th October, 2025.

Sd/- (BALAKRISHNAN S.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated 10th October, 2025
***OKK / SPS**

Copy to:

S.No	Addresses
1	State Bank of Hyderabad (Presently merged with State Bank of India) C/o. CA MV Prasad, First Floor, Opposite Prasad & Co Contractors, D.No. 6-3-871, Snehalata, Greenlands Road, Begumpet, Hyderabad-500016.
2	Income Tax Officer (TDS), TDS Ward-1, D.No. 55-17-2 to 4, Stalin Corporate, A-Block, 4 th Floor, Road No.2, Auto Nagar, Vijayawada, Andhra Pradesh – 520007.
3	The Pr.CIT, Visakhapatnam
4	The DR, ITAT Visakhapatnam Bench
5	Guard File

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