

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH 'DB': AGRA**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No.186/DEL/2025
(Assessment Year: 2012-13)**

Moon Network Private Limited,
1/47, Hotel East Lite, Delhi Gate,
Agra – 282 002 (Agra).

vs.

ITO, TDS 1,
Agra.

(PAN :AACCM9575D)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Rajendra Sharma, Advocate
REVENUE BY : Shri Shailendra Srivastava, Sr.DR

Date of Hearing : 14.10.2025
Date of Order : 28.10.2025

ORDER

PER S.RIFAUR RAHMAN,AM:

1. This appeal is filed by the assessee against the order of Id. Addl./Joint Commissioner of Income-tax (Appeals)-5, Mumbai[hereinafter referred to as 'Id. CIT (A)] dated 05.02.2025 for Assessment Year 2012-13.
2. At the time of hearing, Id. AR of the assessee brought to our notice facts of the case, this is second round of appeal, he submitted that assessee is private limited company, running T.V. network has made the payments to various T.V. channels providers, on which the tax has been deducted u/s 194C of the Income-tax Act, 1961 (for short 'the Act') @ 2% while as per the Revenue,

same was to be deducted u/s 194J @ 10%, on account of which the assessee was treated assessee in default for short deduction of TDS. He submitted that in this case, assessment u/s 201(1)/201(1A) of the Act was completed on 28.03.2014, wherein the AO has treated the assessee in default in respect of short deduction of tax at source u/s 194J for the year under consideration (short deduction of TDS against payment made to various broad casting channels), accordingly the AO has passed the order, treated the assessee in default for short deduction as well as u/s 201(1)/201(1A) of the Act. He submitted that against the order dated 28.03.2014 passed u/s 201(1)/201(1A), the assessee preferred an appeal before Id. CIT (A) before whom it is submitted that "as per explanation to section 191, the assessee could only be treated as assessee in default, where he does not deduct or after so deducting, fails to pay or does not pay, the whole or any part of tax, as required by or under this act and where the assessee has also failed to pay such tax directly", then such person shall without prejudice to any other consequences, which he may occur be deemed to be an assessee in default within the meaning of sub-section (1) of section 201 in respect of such tax. He further submitted that in this case, the AO without brought on record the facts that the assessee (deductee) has not paid tax on such amount paid to him and also such amount has not been charged to tax has treated the assessee the assessee in default which is against the provisions of 191 of the Act. Before

the ld. CIT(A), the assessee has also filed the certificates required as per proviso to section 201, issued by deductee, certified, therein that the amount which the assessee has paid to the deductee has duly been declared before the Income tax authorities and tax thereon, has duly been paid. He submitted that before ld. CIT (A) three certificates in respect of these deductees are filed and it was requested that as per proviso to sec 201 the assessee may not be treated in default and a request was also made that the AO may be directed as per provision of sec 191 r.w.s. proviso to section 201 to verify or make enquiry in respect of the other deductees of whom the certificates required as per proviso to section 201 could not be filed, to verify "whether the deductees has declared these amount towards their income and has paid the tax thereon" and also direct not to treat the assessee in default in respect of the deductees of whom the certificates as per proviso to section 201 are filed. The ld. CIT (A) vide order dated 13.01.2016 has partly allowed the default in respect of the appeal and directed the AO not to treat the assessee in default of whom the certificates have been filed by the assessee. After passing of the order by ld. CIT(A) dated 13.01,2016, the AO has without following the decision of ld. CIT(A) has passed the ex-parte order and further treated the assessee in default in respect of all the deductees, even of those of whom the certificates are filed.

3. Ld. AR further brought to our notice that assessee against the order of ld. CIT(A) dated 13.01.2016 has also preferred an appeal before ITAT, wherein the request was made to direct the AO to make enquiry, as per provision of section 191 in respect of the other deductees of whom the certificates are not filed and assessee is treated in default. The ITAT vide their order dated 26.07.2017 has directed the AO to make the enquiry and verification in respect of the remaining deductees of whom certificates could not be filed to verify, "whether they have disclosed the amount received to them in their income or not".
4. Ld. AR further brought to our notice that in the second round, the AO passed ex-parte order dated 10.11.2017 without following the directions of the ITAT and the assessee has also filed the appeal before ld. CIT (A) and the ld. CIT(A) has further directed the AO to not to treat the assessee in default in respect of the deductees of whom the certificates are filed and that while passing of the order, ld. CIT(A) has not considered and has ignored the order of ITAT, wherein ITAT have directed the AO to verify and make enquiry in respect of the deductees to whom the certificates are not filed. He submitted that against the impugned order herein of ld. CIT (A) dated 05.02.2025, the assessee has preferred an appeal before ITAT under consideration.
5. Ld. AR submitted that in this case, the ITAT vide their earlier order dated 27.07.2017 in the first round of appeal has directed the AO to make enquiry

or verification in respect of the deductees of whom the certificates are not filed, but the authorities below (AO & CIT Appeals) has ignored the direction of the ITAT and has not made any enquiry or verification in respect of the deductees of whom the certificates are not filed (while complete address were already given) and has treated the assessee in default. He submitted that all the facts, evidences and decisions were very much before the authorities below (AO & CIT), but they ignored the directions issued by ITAT and has not made any enquiry and has treated the assessee in default in respect of all the deductees of whom the certificates are not filed. Accordingly, he prayed that as per the order of ITAT dated 26.07.2017 in the first round, the AO may be directed to make verification of enquiry in respect of all the deductees of whom the certificates could not be filed and are part of the record till the verification as directed by ITAT and the assessee should not be treated in default.

6. On the other hand, ld. DR of the Revenue submitted that the assessee has not filed any relevant data or parties before Assessing Officer. However, he has no objection if the matter is remitted back to AO with the same direction.
7. Considered the rival submissions and material available on record. We observe from the facts on record narrated by the ld. AR and going through the earlier direction of the coordinate Bench of the Tribunal dated 26.07.2017 that AO as well as ld. CIT (A) failed to follow the directions given by the coordinate Bench dated 26.07.2017 and passed the order without following the directions of the ITAT in

the second round. Accordingly, we remit the matter back to the file to AO to decide the matter afresh in accordance with the directions given in the earlier ITAT order dated 26.07.2017 which he has not followed earlier. We give strict directions to the AO to adhere to the directions of ITAT order dated 26.07.2017 to call for the information from the deductees and decide the issue as per law. We order accordingly. The grounds filed by the assessee are allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes as indicated above.

Order pronounced in the open court on this 28th day of October, 2025

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**sd/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated: 28.10.2025
TS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**