

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 160/GTY/2025
Assessment Year: 2020-21

Assistant Commissioner of Income Tax,
Circle-2, Guwahati,

Aayakar Bhawan, Christian Basti,

G.S. Road, Guwahati – 781005.....**Appellant**

vs.

The Assam Cooperative Apex Bank Limited,

Apex Bank Building, Hem Barua Road,

Pan Bazar, Guwahati - 781001

[PAN: AAAAT3835H]

..... **Respondent**

Appearances by:

Assessee represented by : Suprakas Chaudhuri, FCA

Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 16.10.2025

Date of pronouncing the order : 28.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. In this case, there is a delay of 18 days which has been requested to be condoned by the Revenue as under:

“The order under section 250 of the Income Tax Act, 1961, passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre(NFAC), Delhi was communicated on 19/03/2025. Consequently, the due date for filing an appeal before the Hon'ble Income Tax Appellate Tribunal (ITAT) was on or before 31/05/2025. However, the appeal was filed before the Hon'ble ITAT, Guwahati, on 18/06/2025, resulting a delay of 18 days due to the following reasons.

Exceptional Workload due to Time-Barring Assessments and Initial Budget Collection Monitoring (March 2025): The period immediately preceding the appeal

due date, specifically March 2025, was marked by an exceptionally high workload. During this time we are engaged in the urgent completion of time-barring assessment-related tasks, which required significant dedication to ensure compliance with the statutory deadline of March 31, 2025. This critical and time-sensitive work consumed a substantial portion of attention. The initial monitoring efforts for budget collections also began to add to the workload during this period, making it genuinely challenging to dedicate adequate time and resources to the preparation and filing of this appeal.

Intense Reporting for Budget Collections and Various Other Statutory Reports (April 2025): The initial weeks of April 2025 brought a further escalation of pressures. This period was dominated by intense and urgent monitoring and reporting requirements concerning budget collections, alongside the preparation of various other statutory reports. This necessitated extensive data compilation, rigorous analysis, and the urgent submission of numerous reports, which significantly diverted departmental resources and staff, thereby further constraining our ability to focus on the appeal filing process.

Transfers (AGT) of 2025 unfortunately coincided with the crucial period for appeal filing, taking place in April-May, 2025.

Administrative Disruption due to Annual General Transfers: Finally, the Annual General Transfers (AGT) of 2025 unfortunately coincided with the crucial period for appeal filing, taking place in April-May, 2025. This administrative disruption resulted in an unavoidable delay in the smooth handover and takeover of charges by newly transferred and relieved Assessing Officers. The subsequent period, involving the acclimatization of new officers and the transition of ongoing cases, led to a temporary slowdown in routine works, impacting the timely processing and forwarding of appeal-related documents.

In light of these cumulative and unavoidable circumstances, the undersigned would most humbly request your kind consideration and condonation of the delay in filing this appeal.”

1.1 Considering the reasons given in the said petition, the delay is hereby condoned and the appeal is admitted for adjudication.

2. The present appeal arises from the order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), dated 19.03.2025, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)].

2.1 In this case, the Ld. CIT(A) is seen to have given relief on an issue involving a provision for arrear payment of VDA, PFD and HRA of Staff which were admittedly, not actually paid during the year under consideration. On this issue, the quantum of disallowance has been

restricted by the Ld. CIT(A) to the tune of Rs. 2,52,30,000/- on account of non-deduction of TDS as per the provisions of section 40(a)(ia) of the Act.

2.2 The Revenue is aggrieved with this action and has approached the ITAT with the following grounds:

“1. On the facts and in the circumstances of the case, the Ld. CIT(Appeals) has erred on law in allowing the appeal of the assessee filed against the disallowance of provision of Rs.8,41,00,000/- towards arrears payment of VDA, PFD (Bank Contribution) and HRA of staff which were not actually paid during the year under consideration.

2. On the facts and in the circumstance of the case, the Ld. CIT(Appeals) has erred in law in holding that the disallowance of Rs.8,41,00,000/- to be restricted to Rs.2,52,30,000/- being 30% of the amount on account of non-deduction of TDS under section 40(a)(ia) of the Act, 1961, whereas no actual payment was made.

3. On the facts and the circumstances of the case, the Ld. CIT(Appeals) has erred in law in holding that the provision for payment of VDA, PFD (Bank Contribution) and HRA to staff as allowable without it being crystallized and as such it was not allowable as per the provisions of the Income Tax Act, 1961.

4. The appellant craves leave to add, alter and amend any of the grounds of appeal at time of hearing/pendency of appeal.”

3. Before us, the Ld. DR relied on the order of Ld. AO and stated that in the absence of actual payment or the liability becoming crystallized, there was no reason why the Ld. CIT(A) should have given any relief.

3.1 The Ld. AR on the other hand, stated that the assessee had to make the said provision because of a specific directive by the Hon'ble High Court and hence that was a legal requirement with the assessee to do so. The Ld. AR relied on the finding of Ld. CIT(A) contained in para 8 on page 8 of the impugned order.

4. We have carefully considered the rival submissions and have gone through the records before us. It is seen that the assessee was duty bound to make the impugned provision for the simple reason that there was a direction of the Hon'ble High Court in that regard. At this stage, we may extract the relevant portion from the Ld. CIT(A)'s order:

“8.0 I have considered the order, relevant records, and the submissions of the assessee. To begin with, the additional evidence produced during the appellate proceedings is admitted as the assessee was unable to produce the same due to paucity of time in the scrutiny proceedings. As regards, the issue of disallowance of provision of Rs.8,41,00,000/- towards payment of arrear salary etc is concerned, it is seen that the assessee created the provision for payment to employees, keeping in view the order of the High Court and the number of employees covered. Therefore, it cannot be said that there was no basis of debiting the provision in the impugned year. However, the assessee failed to adhere to the provisions of section 40(a)(ia), which provides for 30% disallowance of the expenditure, if TDS is not deducted and / or deposited within the due date of furnishing return of income under section 139(1). Since the assessee did not deposit the TDS within the due date u/s 139(1), the disallowance is restricted to Rs 2,52,30,000 @ 30% of Rs 8,41,00,000 u/s 40(a)(ia) of the Act. The assessee gets relief of the balance amount of Rs 5,88,70,000. Gound no 1 is partly allowed.”

Considering the clear finding given in the order we do not deem it fit to interfere with the same under any circumstances. Accordingly, the appeal of the Revenue is dismissed.

Order pronounced on 28.10.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 28.10.2025
AK, Sr. PS

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches