

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "C" BENCH, MUMBAI  
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA No. 5693/Mum/2025 (A.Y. 2013-14) &  
CO No. 306/MUM/2025 (A.Y. 2013-14)  
(Arising out of ITA No. 5693/Mum/2025 for A.Y. 2013-14)**

DCIT TDS 2-1 Room No. 309, MTNL Building, Cumbala Hil, Mumbai-400026.	<b>vs.</b>	Pfizer Limited 1802/1901, The Capital, Plot No. C-70, G Block, Bandra Kurla Complex, Bandra (E), Mumbai-400051.
<b>PAN/GIR No: AAACP3334M</b>		
(Appellant)		(Respondent)

<b>Appellant by</b>	Shri Paras Savla & Shri Shreyas Sardesai
<b>Respondent by</b>	Mr. R. A. Dhyani, CIT DR
<b>Date of Hearing</b>	17.12.2025
<b>Date of Pronouncement</b>	08.01.2026

**ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

These appeal and cross objection by the Revenue and the assessee respectively emanate from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax, National Faceless Appeal Centre [in short, 'CIT(A), NFAC'], Delhi, dated 16.07.2025 for the assessment year (AY) 2013-14.

2. The grounds of appeal raised by the Revenue in ITA No. 5693/M/2025 are as under:

*“1. Whether on the facts and circumstances of the case, the order of the Ld. Addl.CIT/JCIT (A) deleting the demand raised on account of non-deduction of TDS on Provisions created for expenses without appreciating the provisions of sub-section (2) of section 194C, Explanation (iv) to section 194H and Explanation (ii) to section 194I is contrary to law and to the facts and circumstances of the case?”*

*2. Whether on the facts and in the circumstances of the case and in law, in the context of 'Provision for expenses', the Addl./JCIT(A) has erred in deleting the short/non deduction of tax by holding that in view of disallowance u/s 40(a)(i)/40(a)(ia), no demand can be raised u/s 201(1)/201(1A) of the Act.”*

3. The grounds of cross objections by the assessee are as under:

*“1. On facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals) erred in directing the learned Assessing Officer to recompute/levy interest under section 201(1A) of the Income-tax Act, 1961 (the 'Act') in relation to TDS on year-end provisions, inspite of holding that the Assessee is not liable to deduct TDS on the same and provisions of section 201 being not applicable.*

*The Respondent craves leave to amend, delete, rectify, substitute and modify any of the aforesaid grounds of Cross-Objections or add a new ground or grounds of Cross-Objections at any time before or at the time of hearing the Cross-Objections.”*

4. Facts of the case in brief are that the assessee company is engaged in the business of manufacturing and trading of pharmaceutical drugs and medicine. A survey u/s. 133B(2) of the Act was conducted in case of the assessee on 24.08.2018. Subsequently, during the proceedings u/s. 201(1) of the Act, the AO observed that the assessee had not deducted tax at source on the year end provisions of Rs. 16,02,03,102/- and also failed to deduct TDS on stockist margins of Rs. 149,20,37,573/-. After hearing the assessee, the AO passed order u/s. 201(1) and 201(1A) of the Act on 23.03.2020 raising a consolidated demand of Rs.

28,29,18,337/- for non-deduction of tax at source u/s. 194C, 194H, 194I and 194J of the Act. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A). The CIT(A) allowed appeal of the assessee on both grounds by relying upon the decision of the ITAT in appellants own case for A.Ys. 2007-08, 2004-05, 2005-06, 2006-07, 2008-09 and 2009-10. Aggrieved by the order of CIT(A), the revenue has filed the present appeal and the appellant has raised cross objection.

5. At the outset, the Id. AR for the assessee submitted that the revenue has filed the appeal only on the issue of non-deduction of tax at source on year end provisions and no ground has been raised regarding the non-deduction tax at source on margin earned by the stockist. He submitted that the assessee creates provisions for expenses at the end of the year on account of possible future obligations arising from services received during the year. These provisions are based on estimates and the details of the individual payees are not available at the time of creating the provisions. Therefore, the year end provisions do not tantamount to a constructive credit or payment made to any payee and hence, the question of TDS does not arise. Moreover, these provisions are reversed on the first day of the following year, and upon receipt of actual invoices, the amounts are credited to the respective parties account or paid, with TDS in accordance with law. The Id. AR, therefore, submitted that there was no default by the assessee. The Id. AR further submitted that the assessee had suo-moto

disallowed the said sum of Rs. 16,02,03,102/- u/s. 40(a)(ia) of the Act while computing the income from business and profession in the return of income. Once the said disallowance is accepted by the AO, the same amount cannot be treated as falling within the scope of TDS provisions to justify initiation of proceedings u/s. 201 or levy of interest u/s. 201(1A) of the Act. The Id. AR also submitted that similar issue has been decided in assessee's own case by the ITAT in ITA No. 1667 & 1765/Mum/2010 (A.Y. 2007-08) dated 31.10.2012. He submitted that following the above decision, the issue was subsequently decided in favour of the assessee by the Tribunal in assessee's own case for A.Y. 2004-05 to 2009-10. Hence, the facts being similar, the addition was required to be deleted. He has filed copies of the Tribunal orders as well as decisions of Hon'ble High Courts and other Tribunals on similar issues.

6. On the other hand, the Id. CIT DR relied on the order of the AO. He submitted that the decision of the ITAT for A.Y. 2007-08 on the issue of the provisions of expenses has not become final and an appeal is pending before the Hon'ble High Court.

7. We have heard both the parties and perused the materials available on record. We have also carefully gone through the decision of the Tribunal in appellant's case for A.Ys. 2004-05 to 2009-10 in ITA No. 1667/Mum/2010 & ITA No. 1765/Mum/2010, ITA No. 5053 to 5057/Mum/2013 & ITA No.

2450/Mum/2014 and ITA No. 3295/Mum/2016. The Tribunal in appellant's own case for A.Y. 2007-08 in ITA No. 1667/Mum/2000 (supra) has decided the issue in favour of the assessee by holding as under:

*"12. As already explained and evidenced from the computation of income as well as the orders of AO in the assessment proceedings, the entire provision has been disallowed under section 40(a)(ia) and section 40(a)(i). Once the amount has been disallowed under the provisions of section 40(a)(i) on the reason that tax has not been deducted, it is surprising that AO holds that the said amounts are subject to TDS provisions again so as to demand the tax under the provisions of section 201 and also levy interest under section 201(1A). We are unable to understand the logic of AO in considering the same as covered by the provisions of section 194C to 194J. Assessee as stated has already disallowed the entire amount in the computation of income as no TDS has been made. Once an amount was disallowed under section 40(a)(i)/(ia) on the basis of the audit report of the Chartered Accountant, the same amount cannot be subject to the provisions of TDS under section 201(1) on the reason that assessee should have deducted the tax. If the order of AO were to be accepted then disallowance under section 40(a)(i) and 40(a)(ia) cannot be made and provisions to that extent may become otiose. In view of the actual disallowance under section 40(a)(i) by assessee having been accepted by AO, we are of the opinion that the same amount cannot be considered as amount covered by the provisions of section 194C to 194J so as to raise TDS demand again under section 201 and levy of interest under section 201(1A). Therefore, assessee's ground on this issue are to be allowed as the entire amount has been disallowed under the provisions of section 40(a)(i)/(ia) in the computation of income on the reason that TDS was not made. For this reason alone assessee's grounds can to be allowed. Considering the facts and reasons stated above assessee's grounds are allowed."*

8. Since the facts and the issues in the instant appeal are identical to the above appeal, following the findings of the Tribunal in assessee's own case cited supra, ground no. 1 of the revenue relating to liability of assessee to deduct tax on year end provisions is dismissed.

9. The next ground is regarding levy of interest u/s. 201(1A) of the Act for the delay in deposit of tax deducted at source on the year end provisions. The Id. AR relied on the decision of the Tribunal in its own case for A.Y. 2004-05 to 2009-10 where it was held that no interest was required to be levied u/s. 201(1A) of the Act.

10. The Id. CIT DR supported the order of AO and relied on the ground raised on this issue.

11. We have heard both the parties and perused the materials available on record. We have also carefully gone through the decision of the Tribunal in appellant's case for A.Ys. 2004-05 to 2009-10 (supra). Since we have dismissed the ground of revenue with regard to disallowance made on account of TDS on the year end provisions, therefore, no interest is required to be levied u/s. 201(1A) of the Act. Accordingly, the ground is dismissed.

12. In the result, the appeal of the revenue is dismissed.

**CO No. 306/MUM/2025 (A.Y. 2013-14)**

13. The assessee has challenged the direction of the CIT(A) to the AO to recompute levy of interest u/s. 201(1A) in relation to TDS on year end provisions. The appeal of the revenue on both grounds have been dismissed and we have already held that no interest required to be levied u/s. 201(1A) of the Act. When

no interest is leviable at the first instance, the question of re-computation does not arise. Hence, the ground is allowed.

14. In the result, the CO of the assessee is allowed.

Order is pronounced on 08.01.2026.

Sd/-

**(NARENDER KUMAR CHOUDHRY)**  
**JUDICIAL MEMBER**

Sd/-

**(BIJYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Anandi.Nambi(Steno)

MUMBAI

Date: 08.01.2026

**Copy of the Order forwarded to:**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar  
ITAT, MUMBAI