

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER &  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 7430/Mum/2025  
(Assessment Year: 2020-21)**

<b>ALI FAZAL</b> Bungalow No.4, Udadhi Tarang Society, Juhu Tara Road, Juhu, Mumbai 400049	Vs.	<b>Income Tax Officer TDS Ward 1(1)(1)</b> Room No. 413, 4 <sup>th</sup> Floor, Cumbala Hill MTNL TE Building, Peddar Road, Dr G Deshmukh Marg, Cumbana Hill Mumbai – 400026
PAN/GIR No. AAMPF8506G		
(Applicant)		(Respondent)

Assessee by	Shri Ashish Thakurdesai & Shri Aditya Desai
Revenue by	Shri Surendra Mohan (SR. DR.)

Date of Hearing	19.01.2026
Date of Pronouncement	22.01.2026

आदेश / ORDER

**PER MAKARAND VASANT MAHADEOKAR, AM:**

This appeal filed by the assessee is directed against the order dated 17.09.2025 passed by the learned Additional/Joint Commissioner of Income Tax from the office of the Commissioner of Income Tax (Appeals), Kochi [hereinafter referred to as “CIT(A)”], under section 250 of the Income Tax Act, 1961[hereinafter referred to as “the Act”], arising out of the order dated 29.11.2024 passed by the Income Tax Officer, TDS Ward 1(1)(1), Mumbai [hereinafter referred to as “Assessing Officer or AO”], under sections 201(1), 201(1A) and 234E of the Act, for Assessment Year 2020–21.

**Facts of the Case**

2. The Assessing Officer passed an order under sections 201(1) and 201(1A) of the Act on 29.11.2024, treating the assessee as an assessee in default for alleged non-deduction of tax at source on certain payments made during the relevant previous year. The Assessing Officer raised the following demand:

<b>Particulars</b>	<b>Amount</b>
Tax payable under section 201(1)	Rs. 1,59,646/-
Interest under section 201(1A)	Rs. 1,08,559/-
Fee under section 234E	Rs. 1,59,646/-
<b>Total demand</b>	<b>Rs. 4,27,851/-</b>

3. The Assessing Officer observed that the assessee failed to deduct tax at source on aggregate payments of Rs. 15,96,467/- and further

held that the assessee had not filed the prescribed TDS statements, thereby attracting fee under section 234E of the Act.

4. Aggrieved, the assessee carried the matter in appeal before the learned CIT(A). The learned CIT(A), vide order dated 17.09.2025, dismissed the appeal ex parte, holding that the assessee failed to comply with notices issued under section 250 of the Act and further upheld the action of the Assessing Officer on merits, confirming the entire demand of Rs. 4,27,851/-.

5. Against the said order of the learned CIT(A), the assessee is in appeal before us raising following grounds of appeal:

1. *On facts, in circumstances of the case and in law, the learned Addl./Joint CIT-A in erred in confirming raising demand by AO of Rs. 1,59,646/ under section 201(1) of the Income Tax Act, 1961.*
2. *On facts, in circumstances of the case and in law, the learned Addl./Joint CIT-A in erred in confirming raising demand by AO of Rs. 1,08,559/- under section 201(1A) of the Income Tax Act, 1961.*
3. *On facts, in circumstances of the case and in law, the learned Addl./Joint CIT-A in erred in confirming raising demand by AO of Rs. 1,59,646/ under section 234E of the Income Tax Act, 1961.*

6. During the course of hearing before us, the learned Authorised Representative(AR) of the assessee submitted a written application seeking admission of additional evidence under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963.

7. It was submitted that the assessee had inadvertently failed to deduct tax at source on the following payments totalling to Rs. 15,96,467/- :

<b>Name of Payee</b>	<b>Nature of Payment</b>	<b>Amount Paid</b>	<b>TDS Amount</b>
Niraj Pamwani	Rent	Rs. 9,00,500/-	Rs. 90,500/-
Maithili Pamwani	Rent	Rs. 5,20,000/-	Rs. 52,000/-
Mustafa Ahmed	Fees	Rs. 1,35,967/-	Rs. 13,597/-
Ravi Dogra	Fees	Rs. 40,000/-	Rs. 4,000/-

8. It was explained that during the proceedings under section 201 as well as before the learned CIT(A), the assessee could not submit Form 26A certificates due to persistent technical difficulties on the TRACES portal, issues relating to DSC, Java, browser compatibility, and delays in coordination with the Chartered Accountants of the payees. It was submitted that the non-submission of Form 26A was neither deliberate nor intentional but was due to circumstances beyond the control of the assessee.

9. The learned AR submitted that the assessee has now successfully obtained and filed the following documents:

- i. Acknowledgement of Form 26A dated 16.01.2026;

- ii. Form 26A in respect of payments made to Shri Niraj Pamwani and Smt. Maithili Pamwani;
- iii. Form 26A-A certificates duly filed on the TRACES portal.

10. It was submitted that the said Forms 26A have already been verified by the Department and, therefore, the demand under section 201(1) and consequential interest under section 201(1A) in respect of the said two payees deserves to be deleted.

11. With respect to the remaining two payments made to Shri Mustafa Ahmed and Shri Ravi Dogra, the learned Authorised Representative submitted that the assessee has already disallowed 30 percent of the expenditure in the computation of income in accordance with the provisions of the Act and, therefore, to that extent the addition may be sustained and the Assessing Officer may be directed to recompute the liability.

12. As regards fee levied under section 234E, it was submitted that the assessee had filed the TDS return within the prescribed time and, therefore, levy of fee under section 234E is not applicable. The Assessing Officer was requested to verify the same and delete the fee levied.

13. The learned Departmental Representative, when confronted with the application for admission of additional evidence and the documents filed therewith, raised no objection to the admission of the same. We have considered the rival submissions, perused the orders of the authorities below and the material placed on record.

14. In view of the explanation furnished by the assessee and considering the fact that the additional evidence goes to the root of the matter, and further noting that the learned Departmental Representative has raised no objection, we admit the additional evidence filed by the assessee under Rule 29 of the ITAT Rules, 1963, in the interest of justice.

15. It is an admitted position that Form 26A certificates in respect of payments made to Shri Niraj Pamwani and Smt. Maithili Pamwani have now been filed and the same have already been verified by the Department. In such circumstances, the assessee cannot be treated as an assessee in default under section 201(1) of the Act in respect of the said payments. Consequently, the demand raised under section 201(1) and interest levied under section 201(1A) corresponding to these two payees is directed to be deleted.

16. As regards the payments made to Shri Mustafa Ahmed and Shri Ravi Dogra, it is noted that the assessee has already disallowed 30 percent of the expenditure in the computation of income, as submitted by the learned Authorised Representative. To this extent, the action of the Assessing Officer is confirmed, and the Assessing Officer is directed to recalculate the amount payable, if any, in accordance with law after giving effect to this order.

17. The assessee has contended that the TDS return was filed within the prescribed time and, therefore, levy of fee under section 234E is not applicable. In the interest of justice, we direct the Assessing Officer to verify the factual position regarding filing of the TDS return and, if it

is found that the return was filed within time, the fee levied under section 234E shall be deleted.

18. In the result, the appeal filed by the assessee is partly allowed, with the above directions.

Order pronounced in the open court on 22.01.2026.

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

Mumbai, Dated 22/01/2026  
RY, Sr. P.S.

**Sd/-**  
**(MAKARAND VASANT MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai