



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "B", LUCKNOW**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND
SHRI, NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No. 136/LKW/2020
Assessment Year: 2012-13

M/s. Motor & General Sales Ltd 11, M. G. Marg, Hazratganj, Lucknow-226001.	v.	Income Tax Officer (TDS)-II Commissioner of Income Tax (Appeals-II), Kanpur-208001.
PAN:LKNMO0336A		
(Appellant)		(Respondent)

Appellant by:	Shri Rakesh Garg, CA		
Respondent by:	Shri S. H. Usmani, CIT- DR		
Date of hearing:	06	11	2025
Date of pronouncement:	02	02	2026

ORDER

PER NIKHIL CHOUDHARY, ACCOUNTANT MEMBER.:

This is an appeal filed by the assessee against the order of the learned Commissioner Income Tax (Appeals)-II, Kanpur dated 12.12.2019, passed u/s 250(6) of the Income Tax Act, 1961 ("Act", for short) for the A.Y. 2012-13, wherein the Ld. CIT(A) has dismissed the appeal of the assessee against the orders of the Ld. Assessing Officer (AO) u/s 201(1)/201(1A) of the Act for the A.Y. 2011-12. The grounds of appeal are as under: -

"1. That the Ld. CIT(A) is not justified in confirming the framing of the order under section 201(1)/201(1A) of the I.T. Act, 1961 of the appellant who is only a Franchise Agent and, therefore, the order passed is void ab initio and bad in law.

2. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the treatment of discount / compensation allowed to the customers under GHS Scheme by the principal M/s. Tanishq Jewellers to be in the nature of interest under section 194A and confirming the treatment of the appellant in default under section 201(1)/201(1A) of the I.T. Act, 1961

3. That the Ld. CIT(A) has erred in law and on facts and circumstances of the case in not appreciating that the discount / compensation passed to the customers equivalent to the 12th instalment of GHS Scheme was not in the nature of any interest and, therefore, there was no default within the meaning of section 201(1)/201(1 A) of the I.T. Act, 1961.

4. That the order passed by the Ld. CIT(A) is without proper opportunity, without giving any reasoning, and only for the reason that since the appellant is agent, it was his liability to deduct tax at source as the business of the principal is being carried on by the agent i.e. the appellant.

5. That in any view of the matter, the Ld. CIT(A) has failed to appreciate that the provisions of Chapter XVII of the I.T. Act, 1961 are not applicable in respect of discount/compensation allowed to the customers under the scheme and, therefore, there was no law for deduction of tax at source thereon of the appellant.

6. That without prejudice, the Ld. CIT(A) has erred in law and on facts and circumstances of the case in confirming the working of the default under section 201(1)/201(1A) of the I. T. Act, 1961 as done by the Assessing Officer.

7. That the appellant craves leave to add, alter, amend or withdraw any or all grounds of appeal at any time before and during the course of the hearing.”

2. The facts of the case are that a survey/verification u/s 133A of the Act was conducted on the assessee on 31.12.2012. As a result of the survey, it was found that the assessee was running a scheme known as the *Golden Harvest Scheme* which was a deposit scheme where the interest was nomenclatured as discount in order to avoid TDS provisions. Under the scheme, prospective buyers were required to make monthly deposits in the form of instalments towards the proposed purchase of jewellery. At the time of enrolment, customers were issued a passbook containing the detailed terms and conditions of the scheme. Enrolment in the Golden Harvest Scheme signified the placement of an order for jewellery by the customer, which culminated in the purchase of jewellery upon completion of the stipulated period. The customer was permitted to redeem the accumulated amount after eleven months only in the form of purchase of jewellery. At the time of such purchase, one month's instalment was contributed by the company. The Assessing Officer was of the opinion that the deposits received under the Golden Harvest Scheme were akin to a FDR for a period of eleven months and therefore, he held that the payment of interest beyond the specified limit must be brought to tax u/s 194A of the Income-tax Act, 1961. He also referred to the provisions of

section 2(28A) of the Act and held that it referred to the interest payable in any manner, in respect of any money borrowed or debt incurred. According to him, the definition of interest under section 2(28A) was wide enough to cover interest payable in respect of loans, deposits, or other similar obligations. He concluded that the amounts collected under the Golden Harvest Scheme represented deposits or advances received by the assessee, and therefore, the free instalment provided by the company amounted to interest within the meaning of section 2(28A) of the Act. The Assessing Officer further held that the deposits received under the scheme were not amounts received in the ordinary course of business. He treated the same as deposits as defined u/s 45 I(bb) of the Reserve Bank of India Act, 1934. He concluded that the discount given in the twelfth month was, in substance, interest payable by the assessee to the customers on the money deposited for a period of eleven months. Consequently, he held that the assessee was required to deduct tax at source on such interest and after computing the total interest at Rs.47,89,500/-, the Assessing Officer held that the assessee ought to have deducted tax at source at the rate of 10% thereon. He accordingly treated the assessee as an assessee in default u/s 201(1) of the Act to the extent of Rs.4,78,950/-. Since the assessee had failed to deposit the said amount into the credit of the Central Government, he further levied interest of Rs.1,20,948/- u/s 201(1A) of the Act.

3. Aggrieved with the said assessment order, the assessee went in appeal before the Ld. CIT(A). The Ld. CIT(A), after considering the submissions of the assessee, held that the assessee had failed to demonstrate how the provisions relating to deduction of tax at source were not applicable to the discount

offered under the scheme. He further held that since the assessee was acting as an agent of M/s Titan Industries Ltd., it was responsible for compliance with the TDS provisions in respect of the discount offered on behalf of M/s Titan Industries Ltd. The Ld. CIT(A), therefore, dismissed the appeal of the assessee. The assessee is aggrieved with such dismissal of the appeal and accordingly come before us.

4. Shri Rakesh Garg, Advocate (hereinafter known as the "AR") pointed out that the final installment paid by the assessee on the behalf of M/s. Titan Industries Ltd was nothing but a discount and it could not be subjected to TDS u/s 194A of the Act. The discount was nothing more than a concession of price on the item at the time of sale. Shri Rakesh Garg, Ld. AR, took us through the details of the Golden Harvest Scheme as contained at page nos. 1 to 21 of his paper book and pointed out that under the said scheme, the customer was required to make monthly deposits for a period of 11 months. On completion of the said period, the customer was entitled to redeem the scheme in the 12th month, at which time a discount equivalent to one month's contribution was allowed at the time of purchase of jewellery. Since the assessee could not collect the maturity amount upon the conclusion of the 12 months period, the discount that was given at the time of the purchase of jewellery could not be considered the payment of interest on a deposit. He drew our attention to page no. 12 of his paper book wherein he pointed out that TDS was not applicable on the Golden Harvest Scheme. In case the customer did not redeem the deposit with a purchase, within the 400, days he would be refunded the aggregate installment amount paid by the customer until the date of refund, but could not be take any discount. A discount voucher

for the applicable discount amount would be provided which could only be utilized to purchase jewellery from the company of a value equal to or greater than full value of the installments paid. In the circumstances, the Ld. AR submitted that the deposit by the customer was only an advance made towards the purchase of jewellery and could not be construed a term deposit requiring the assessee to deduct TDS on discount u/s 194A of the Act. It was further argued without prejudice to the above that in any case the responsibility for deduction could not be fastened upon the agent, because the money collected under the scheme was neither owned by the assessee, nor retained by the assessee and the had to be remitted to the principal either on the same day or on the very next day, as per terms of the agency agreement. Furthermore, the advances received against the sale promotion scheme were duly reflected in the accounts by the principal i.e. M/s. Titan Industries Limited. The assessee only managed and ran the Tanishq showroom under an agency agreement with M/s. Titan Industries Ltd and the assessee was not under obligation to pay/incur any expenditure for granting of installments and therefore, could not be held liable for any withholding of tax under the provisions of the Income Tax Act, 1961. On this account, it was prayed that the addition made was not in accordance with law. The Ld. AR also drew our attention to the judgment of the Income Tax Appellate Tribunal, in the case of Shri Venkatesh Paper Agencies (Hyd) Pvt Ltd vs DCIT in ITA. No.636/Hyd/2011 to demonstrate that the ITAT Hyderabad Bench had held that the interest paid in that matter was not for any loan or debt incurred by the assessee but for the delay in payments of bills for purchases effected and such payments were not in the nature of interest envisaged u/s 2(28A) of the Act. The

payments which had the direct link and immediate nexus with trading liability would not fall in the category of interest u/s 2(28A) of the Act. Therefore, he argued that in this case also since the discount that was given in the course of trading activity, the discount did not constitute interest u/s 2(28A) of the Act. The Ld. AR also invited to our attention to the retailer invoice issued by the assessee on behalf of the M/s. Titan Industries Ltd where the amounts deposited by the customer under the Golden Harvest Scheme were adjusted against the price of jewelry and the amount paid by the company was shown as a discount in the said invoice. In view of the same, he submitted that no TDS was liable to be deducted upon them as these did not constitute the payment of interest.

5. On the other hand, the Ld. CIT-DR Shri S. H. Usmani, drew our attention to the written submission filed by his predecessor in which the Ld. CIT-DR had analyzed the scheme and pointed out that Companies Act, 2013 had brought about a comprehensive definition of deposit as envisaged, of money by way of deposit or loan in any form by a company and the Central Government had framed the Companies (*Acceptance of Deposit*) Rules 2014, which were applicable from 01.01.2014. Explanation (a) to Rule 2 of said Rules provided that any amount (a) received by the company, whether in the form of installments or otherwise, from a person with promise or offer to give returns, in cash or in kind, on completion of the period specified in the promise or offer, or earlier, accounted for in any manner whatsoever, or (b) any additional contributions, over and above the amount under item (a) above, made by the company as part of such promise or offer, shall be treated as a deposit. It was pointed out that the Gold Investment Scheme would fall in this

category and accordingly to all such deposits, the elaborate provisions under the Companies (*Acceptance of Deposits*) Rules, 2014 would apply. It was submitted that even if, the gold investment schemes are in the nature of advances, the argument could be struck down as there could be no promise or offer to give returns in case of advances. Therefore, the GHS scheme could at best equated to monthly deposits on which a certain amount of interest is paid at the time of closing the scheme. This was similar to banking industry taking deposits and distributing interest. As the interest in this case was distributed in the name of discounts because the customer was only authorized to redeem the funds after eleven months, therefore, these deposits can be termed as fixed deposit receipt and therefore the payment of interest beyond specified limit over the year must be brought to tax under the ambit of Section 194A of the Act. It was submitted that the necessary ingredients of interest as defined u/s 2(28A) of the Act were attracted and therefore the interest generated from the advance made from the customer should have been brought to tax under the TDS provisions and Section 194A of the Act was squarely applicable in this case.

6. We have duly considered the facts and circumstances of the case. On a perusal of the Golden Harvest Scheme as contained within the paper book submitted by the Ld. AR, we note that it is an invitation to customers to invest a certain amount of money with M/s. Titan Industries Ltd by way of monthly installments which could be redeemed only by way of purchase of jewellery after the conclusion of the eleven month period. At the time of redemption, the company would offer a discount on the value of jewellery equivalent to one month installment paid by the assessee. From the facts and our

understanding of the scheme, it appears that the said benefit was an incentive offered to the customer in the course of trading activity. Since the amounts paid by the customers cannot be redeemed in the form of cash upon the conclusion of the deposit period and can be utilised only towards the purchase of jewellery, the said scheme cannot be regarded as a fixed deposit scheme but only as advance towards purchases of jewellery and consequently, the discount offered by the company cannot be regarded as payment of interest as per provisions of Section 2(28A) of the Act, but only as an incentive or sales promotion activity extended to encourage customers to purchase jewellery by making payments on an instalment basis instead of a lump-sum payment and in this manner creating a larger market for its products to be sold. We note that in terms of the Reserve Bank of India Act, 1934, the term deposit as per section 45 I(bb) of the Act does not include amount received in the ordinary course of business for advances against orders for goods, properties or services. We cannot accept the argument that the purchase by way of payment of an installment does not constitute sale in the ordinary course of business. We also note that that Rule 2(b) of the Companies (*Acceptance of Deposits*) Rules, 1975, which were the Rules prevailing for the concerned assessment year, do not include any advances received against order for the supply of the goods or properties within the meaning of deposit. The Rule referred to by the Ld. DR have come into effect from 01.04.2014 and do not pertain to the financial year in question. We also note that the ITAT Hyderabad Bench has held in a case where interest was paid for delayed payments, such interest would not come under the definition of interest paid as per Section 2(28A) of the Act and therefore the TDS is not deductible on all kinds of

interest. We further note that the ITAT Chennai Bench in the case of M/s. Khazana Jewellery Pvt Ltd vs ACIT in ITA. Nos. 1829, 1830, 1831, 1832 & 1833/MDS/2014 has held that such discounts could only be considered as incentive. We also note that while clause 7 of the Golden Harvest Scheme provides that installments not redeemed by purchase of jewellery within 400 days would be refunded, the discount would only be provided in the shape of a voucher that could only be availed for securing discount if the customer purchased jewellery for an amount equal to or more than the aggregate value of installments. To our mind this clause makes it evident that the discount is not in the nature of interest, for interest would have been payable on maturity irrespective of purchase of jewellery. Therefore, since the discount offered to the customers is not a payment of interest that could be redeemed by the customers along with principal upon the conclusion of the scheme but necessarily had to result in the purchases of jewellery, we hold that no case is made out for considering the same to be interest upon which TDS is deductible u/s 194A of the Act. Ground nos. 2, 3 & 5 of the appeal are therefore, allowed and the remaining grounds are dismissed as infructuous.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 02/02/2026.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

DATED: 02/02/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

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By order
Sr. Private Secretary
ITAT, Lucknow