

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: "F" NEW DELHI**

**BEFORESHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.5588/Del/2025
Assessment Year:2013-14

DCIT, Circle73(1), Delhi.	Vs.	Canon India Private Limited 7 th Floor, Tower-B, Building No. 5, DLF Epite, DLF Phase III, Gurgaon, Haryana- 122002.
PAN: DELC3815A		
(Appellant)		(Respondent)

Assessee by	Sh. S.K. Aggarwal, C.A.
Department by	Ms Harpreet Kaur Hansra, Sr. DR

Date of hearing	17.02.2026
Date of pronouncement	17.02.2026

ORDER

PER SATBEER SINGH GODARA, JUDICIAL MEMBER

This Revenue's appeal for assessment year 2013-17, arises against the Commissioner of Income Tax (Appeals), ADDL/JCIT(A)-1 [in short, the "CIT(A)/NFAC"], Nagpur's DIN and order No. ITBA/APL/S/250/2024-25/1070020673(1), dated

29.10.2024 involving proceedings under section 201(1)/201(1A) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. It transpires that during the course of hearing that the Revenue/appellant herein seeks to reverse the CIT(A) action holding that the assessee is not liable to deduct TDS on a common maintenance charges "CAM" as per the Assessing Officer section 201(1) order dated 22.03.2021; vide following lower appellate discussion, as under:-

"5. Appellate Findings:

5.1 The appellant is in the business of wholesale trading of various products including multi-functional devices & accessories, printers and cameras, etc., together with providing service support and maintenance service to its customers. The appellant also provides software, developed in-house, to its ultimate parent company, Canon Inc., Japan.

5.2 Further, AO in his order u/s 201(1)/201(1A) of the Income Tax Act, 1961 observed and contended as below: -

a) The details of transactions on account of various Rent payments and Common area maintenance charges are placed on record as received physically or digitally from the Assessee.

b) A distinction between three kinds of arrangements can be made as follows:

i) Rent and CAM charges is being paid to the same party itself. In most of the cases lease agreements covers the CAM charges as well and in some cases separate maintenance

agreement might also have been drawn. This amount is nothing but the Rent governed by the same agreement and subject to deduction of TDS of 10%. However, assessee has been deducting TDS @2% only on these payments.

ii) In relation to other properties, where CAM charges and Rent is being paid to the different vendors by the assessee, following properties draw attention as the same agreement of lease governs the CAM charges and also appoints the party to this case is fitting where the arrangement has been made to pay rent only in two different parts.

iii) Then there are properties on which maintenance is being managed by entirely different parties and the premises is taken by the Assessee from different parties and maintenance is with entirely an independency agency and the owners of the different parts of the mall don't exercise any control over such maintenance services and cannot dictate the terms. In such case, though the CAM is crucial for determination of RENTAL value of the property but the same may not be considered as RENT for the purpose of section 1941 in this Case. In these type of lease out agreements, had the property been used by the owner himself, he himself would have been getting charged by an independent party for the maintenance who will eventually pay out to the party who has developed the mall or still exercise the control over common area of the mall. Thus, the amount paid as RENT for these properties by the Assessee to independent owners are independent of CAM charges based on Invoice or other independent agreements by mall management or maintenance Company. Thus, in respect of these properties, maintenance services are not considered as part of RENT and thus subject to TDS u/s 1940 of the Income tax Act at 2% only

c) In the present case, both Rent and CAM charges were paid to Ambience Group entities, The rent was paid to M/s Ambience Developers & Infrastructure Pvt Ltd while CAM charges were paid to M/s Ambience Facilities Management

Pvt Ltd which is incidentally sister concern of M/s Ambience Developers & Infrastructure Pvt Ltd.

d) M/s Canon India Pvt. Ltd. is Assessee-in-default:

In view of the above discussion, it is evidently clear that the payments in the nature of common area maintenance which are essentially part of rental activity are covered under section 194-1. Further, in the instance case, even the agreement for rental payments and common area maintenance (CAM) payments is same, thereby removing any doubts to the nature of CAM expenses, As CAM expenses are squarely covered under the provisions of section of 194-1, therefore the assessee is treated as an assessee in default within the meaning of section 201(1) of the 1. T. Act, 1961, for failing to appropriately deduct tax on payment as required by the provisions of the Act.

5.3 During Appellate proceedings, the appellant has submitted the case laws that are relevant to the present case. Also, appellant during proceedings submitted plethora of case explaining that the CAM charges were considered as contractual payments subject to withholding tax at rate of 2% u/s 194C of the I.T. Act, 1961.

a) M/s Kapoor Watch Company Pvt. Ltd. [KWPL]-

In the case of KWPL, the case was selected after survey action in the case of Ambience Group & subsequently AO passed the order charging 10% TDS on CAM. In the case of KWPL, Hon'ble ITAT, Delhi gave relief to the appellant and ruled that there is no short deduction on CAM charges.

b) Further, Hon'ble ITAT, Delhi in the case of Appellant Vs ACIT Circle-73(1). New Delhi-

Hon'ble ITAT, Delhi in the case of Canon India Pvt. Ltd. for A.Y. 2011-12, in para 3-8 contended that-

"Briefly stated the facts of the case are that the assessee company is in the business of electronic goods. A survey action was conducted in the case of Ambience Group in which it came to the knowledge of the department that the Ambience

Group owns and operates malls which have various units/shops which are either sold or are rented. It came to the notice of the department that the mall owners have recovered/collected expenses in the form of CAM charges (Common Area Maintenance). It seen that the deductors/tenants have been deducting TDS at 2% u/s. 194C of the Act. The AO was of the firm belief that the tax should have been deducted at source u/s. 1941 of the Act and treated the assessee in default and directed the assessee to pay the TDS amount of Rs. 2434248/-

Assessee carried the matter before the CIT(A) but without any success.

Before us the Counsel for the assessee straightway drew our attention to the decision of this Tribunal in the case of Connaught Plaza Restaurants in ITA No. 993 and 1984/Del/2020 and pointed out that on identical facts the Tribunal has held that provisions of section 194C are applicable in so far as payment of CAM charges are concerned.

Per contra the DR could not bring any distinguishing decision in favour of the revenue.

We have carefully considered the orders of the authorities below. The undisputed fact is that the impugned payment is not rent but common area maintenance charges paid by various tenants/ owners of the shop to the mall owners. On this undisputed facts the decision of the coordinate Bench (supra) clearly apply wherein the coordinate Bench has held as under-

"In sum and substance, only the payments for use of premises/equipment is covered by Section 194-1 of the Act. In our considered view, as the CAM charges are completely dependent and separate from rental payments, and are fundamentally for availing common area maintenance services which may be provided by the landlord or any other agency, therefore, the same cannot be brought within the

scope and gamut of the definition of terminology "rent". On the other hand, we are of the considered view, that as the CAM charges are in the nature of a contractual payment made to a person for carrying out the work in lieu of a contract, therefore, the same would clearly fall within the meaning of "work" as defined in Section 194C of the Act. In our considered view, as the CAM charges are not paid for use of land/building but are paid for carrying out the work for maintenance of the common area/facilities that are available along with the lease premises, therefore, the same could not be characterized and/or brought within the meaning of "rent" as defined in Section 194-1 of the Act. 13. In the backdrop of our aforesaid deliberations, we concur with the claim of the Id. AR that as the payments towards CAM charges are in the nature of contractual payments that are made for availing certain services/facilities, and not for use of any premises/equipment, therefore, the same would be subjected to deduction of tax at source u/s. 194C of the Act. Our aforesaid view is supported by the order of the ITAT, Delhi in the case of Kapoor Watch Company P. Ltd. vs. ACIT in ITA No. 889/Del/2020. In the aforesaid case, the genesis of the controversy as in the case of the assessee before us were certain proceedings conducted by the Department in the case of Ambience Group (supra) to verify the compliance of the provisions of Chapter XVII-B of the Act. On the basis of the facts that had emerged in the course of the proceedings, it was gathered by the Department that the owners of the malls in addition to the rent had been collecting CAM charges from the lessees on which TDS was deducted @2% i.e u/s 194C of the Act. Observing, that payment of CAM charges were essentially a part of the rent, the AO treated the assessee as an assessee-in-default for short deduction of tax at source u/ss. 201(1)/201(1A) of the Act. On appeal, it was observed by the Tribunal that the CAM charges paid by the assessee did not form part of the actual rent that was paid to the owner

by the assessee company. As the facts involved in the case of the assessee before us remains the same as were therein involved in the aforesaid case, therefore, in the backdrop of our aforesaid deliberations, and respectfully following the aforesaid order of the Tribunal, we herein conclude, that as claimed by the assessee, and rightly so, the CAM charges paid by it were liable for deduction of tax at source @2%, ie, u/s. 194C of the Act. We, thus, in terms of our aforesaid observations set aside the order of the CIT(A) who had approved the order passed by the AO treating the assessee company as an assessee-in-default u/s.201(1) of the Act. The Grounds of appeal no.4 to 4.5 are allowed in terms of our aforesaid observations."

Respectfully following the decision of the coordinate Bench (supra) we direct the AO to delete the impugned addition. The appeal of the assessee is allowed."

6. Considering the above two judgements in the case of KWPL and Appellant itself, relying on the judgment of Hon'ble ITAT, Delhi all grounds of the appellant are considered and allowed accordingly."

This is what leaves the Revenue aggrieved.

3. We have given our thoughtful consideration the Revenue's and the assessee's vehemently submissions reiterating their respective stands. Suffice to say, the Assessing Officer had held the assessee as the assessee in default for having not deducted TDS @ 10% u/s 194I thereby treating is common maintenance charges as contractual payments u/s 194C suspected to TDS @

2% only at the latter's behest. The Assessing Officer was of the considered view that the assessee's impugned payment income is required TDS deduction involving rent herein u/s 194I of the Act is very terms.

4. We find no merit in the Revenue's instant sole substantive ground. This is for the precise reason that the assessee has already succeeded on the very issued before the tribunal in proceedings relating to assessment year 2011-12 (supra) which appears to have attended finality as well. We thus uphold the learned CIT(A) impugned lower appellate findings under challenge in a very terms.

5. This Revenue's appeal is dismissed.

Order pronounced in the open court on 17th February, 2026

**(NAVEEN CHANDRA)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated: 19th February, 2026.

Santosh/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi

Sr. No.	Particulars	Date

1.	Date of dictation of Tribunal Order	17.02.2026
2.	Date on which the transcribed draft Tribunal Order is placed before the Author Member	18.02.2026
3.	Date on which the transcribed draft Tribunal Order is placed before the other Member (in case of DB)	
4.	Date on which the approved draft Tribunal Order comes to the Sr. P.S. /P.S.	
5.	Date on which the fair Tribunal Order is placed before the Author Member for signature	
6.	Date on which the fair order is placed before the other Member for signature (in case of DB)	
7.	Date on which the signed order comes back to the Sr. P.S./P.S for uploading on ITAT Website.	
8.	Date on which the final Tribunal Order is uploaded by the Sr. P.S. /P.S. on official website	
9.	Date on which the file goes to the Bench Clerk along with Tribunal Order	
10.	Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks	
11.	Date on which the file goes for Xerox	
12.	Date on which the file goes for endorsement	
13.	Date on which the file goes to the superintendent/OS for checking	
14.	The date on which the file goes to the Assistant Registrar for signature on the tribunal order	
15.	Date on which the file goes to dispatch section for dispatch of the order	
16.	Date of Dispatch of the Order	
17.	Date on which file goes to Record Room after dispatch the order	