

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No. 494/Ind/2025
Assessment Year:2016-17

Chief Municipal Officer, Nagar Palika, Opposite Bajaj Tempo, Sector No.1 Pithampur (Assessee/Appellant)	<u>बनाम/</u> Vs.	ACIT (TDS) Indore (Revenue/Respondent)
TAN: BPLC01981A		
Assessee by	Ms. Nisha Lahoti, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	12.02.2026	
Date of Pronouncement	27/02/2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal bearing DIN: ITBA/APL/S/250/2024-25/1074785141(1) dated 20.03.2025 passed by learned Commissioner of Income-Tax (Appeals)-Addl/JCIT(A)-8, Mumbai ["CIT(A)"] which in turn arises out of order dated 28.02.2023 passed by learned ACIT, TDS, Indore ["AO"] u/s 201(1)/(1A) of Income-tax Act, 1961 ["the Act"] for Financial Year 2015-16 relevant to Assessment-Year 2016-17, the assessee has filed this appeal on following grounds:

"1. On the facts and circumstances of the case and applicable law Ld. CIT(A) erred in sustaining the order passed by Ld. AO under section 201(1)/201(1A) which is contrary to the material on records and provisions of the Act, unjust and bad in law.

2. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the order passed w/s 201(1)/201(1A) without providing a reasonable opportunity of being heard

3. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in treating the assessee in default within the meaning of section 201(1) for short deduction of TDS u/s 194J for an amount of Rs. 4,36,013.

4. On the facts and circumstances of the case and applicable law Ld. CIT(A) erred in treating the assessee in default within the meaning of section 201(1) for short deduction of TDS u/s/194J for an amount of Rs. 4,36,013 and thereby levying an interest u/s 201(1A) of Rs. 3,91,495.

5.The appellant craves leave to add, amend alter otherwise raise any other ground of appeal."

2. The background facts leading to present appeal are such that a TDS Survey was conducted by Income-tax authorities on 24.10.2019 in the premise of Nagar Palika, Pithampur, Dhar to verify TDS compliances out of certain payments wherein certain discrepancies were observed. Subsequent to survey, the AO issued notices u/s 201(1)/(1A) to assessee. Ultimately, the AO passed order dated 28.02.2023 u/s 201(1)/(1A) creating a total demand of Rs. 8,27,509/- [consisting of TDS + Interest uptill the date of passing order]. Aggrieved, the assessee carried matter in first-appeal but did not get any success. Now, the assessee has come in next appeal before us.

3. Ld. AR for assessee at first carried us to following para of order passed by AO:

"In view of the provisions of Section 194J of the Act, tax was deductible on payments for such services u/s 194J of the Act @ 10%. However, the

assessee has deducted tax @ 1%/2%. During proceedings u/s 201(1)/201(1A) of the Act for F.Y. 2015-16, assessee neither filed any submissions in this regard nor substantiated deduction of tax @ 1%/2% on aforementioned planning, designing, DPR work, Candidate training etc. services, being professional services, by the above persons. Thus, it is concluded that assessee has no explanation whatsoever to offer in relation to non-deduction of TDS @ 10% u/s 194J of the Act on professional services provided by the above persons for financial year under consideration."

4. Thereafter, Ld. AR carried us to following paras of order passed by CIT(A):

"5.1. In the instant case, total non-compliance on the part of the appellant leaves me with no option other than to decide the appeal ex-parte, on merits of the case. No supporting documents/evidence produced by the appellant during the course of proceedings before the AO as well as appellate proceedings. The burden of proof is always on the person who makes the claim. In this case, it is the appellant who has made the claim by filing the appeal was supposed to furnish documentary evidence in support of his claim. The appellant has not availed any opportunity to do so.

5.4 I have perused the impugned order u/s 201(1)/ 201(1A) of the Act dated 28.02.2023. The appellant has not furnished any submissions in support of the grounds of appeal during the appellate proceedings. Taking into account the entire conspectus of this case, I see no reason to disturb the categorical findings of the assessing officer and thus, the order passed by the AO in question is hereby confirmed.

6. In the end result, the appeal is DISMISSED. Order passed under section 250 read with section 251 of the Act."

5. Ld. AR next submitted that the assessee is a local authority working as a wing of Govt. for statutory functions and the assessee was not able to make representation before lower authorities and that is why the lower-authorities have passed ex-parte orders. However, the assessee is ready and willing to make a proper representation before AO if an opportunity is given and prays that the present matter should be remanded to the file of AO for a fresh adjudication after hearing assessee.

6. Ld. DR for revenue agrees with the prayer of Ld. AR but makes a request to direct the assessee to represent his case before AO and do not seek unnecessary adjournments.

7. In view of above submissions of parties; having regard to the principle of natural justice and also bearing in mind that no prejudice would be caused to revenue if the present matter is restored at the level of AO, we remand this matter back to the file of AO for adjudication afresh, at the risk and responsibility of assessee. The AO shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

8. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 27/02/2026
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Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 27/02/2026
Patel/Sr. PS

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore