

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**BEFORE SHRI RAJ KUMAR CHAUHAN, HON'BLE JUDICIAL
MEMBER**

&

MRS. RENU JAUHRI, HON'BLE ACCOUNTANT MEMBER

ITA No. **5290/DEL/2025**; Assessment Year: **2016-17**

Base Exports Private Ltd. 304, Kanchan House, Karampura Commercial Complex, New Delhi- 15	Vs	ITO Ward 73(3)
(APPELLANT)		(RESPONDENT)
PAN No. DELB08518G		

Assessee by : **None**

Department/Revenue by : **Shri Amit Jain, CIT (DR)**

Date of Hearing: 10.03.2026	Date of Pronouncement: 13 .03.2026
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ORDER

PER RENU JAUHRI :

The above captioned appeal is preferred by the assessee against the order dated 04.06.2025, passed by Commissioner of Income Tax (Appeal) [Addl/JCIT (A)-1], Vadodara. (hereinafter referred to as, "Ld. CIT(A)") u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as, "Act") for A.Y. 2016-17.

2. The assessee has raised following grounds of appeal:

"1. That the Ld. Addl/JCIT(A) has erred both in law and on facts in sustaining the addition of Rs. 1,35,093/-made by the Ld. Assessing Officer pertaining to the tax to be deducted on

account of payment made by the appellant on account of EDC charges for the FY 2015-16 relevant to AY 2016-17

2. *That the learned Addl./JCIT had granted an opportunity to file a written submission on or before 05.06.2025. However, the order under section 250 of the Income Tax Act, 1961 was passed prematurely on 04.05.2025 at 10:17 AM, before the expiry of the time granted to file the paper book, thereby denying the assessee a fair opportunity of being heard and hence the order is passed against the principles of natural justice.*
3. *That the Learned Income Tax Officer has failed to appreciate that Appellant Company should not be treated as assessee in default within the meaning of Section 250 as the Appellant Company was not liable to deduct the tax at source from the payments of EDC under Section 194C of Income tax Act. That the CBDT gave its instructions through its memorandum F. No. 370133/37/2017-TPL dated 23.12.2017 that TDS is deductible u/s 194 of the Act on payment of EDC to HSVP (erstwhile HUDA) which clearly shows that before this CBDT memorandum nobody was deducting tax at source from this EDC payment which has to be made to HUDA. Hence, this clearly shows that Assessee should not be treated as Assessee in default within the meaning of Section 250 Hence the same is unlawful and unsustainable under the law.*
 - 3.1 *That without prejudice to the above, the learned Commissioner of Income Tax has erred both in law and on facts in holding that the appellant company was liable to deduct tax at source @ 2% under Section 194C of the Act on External Development Charges paid on behalf of Director Town & Country Planning, Haryana (a State Government Undertaking) to Haryana Urban Development Authority (HUDA).*
 - 3.2 *That the Addl./JCIT(A) -I Vadodara has failed to appreciate that the External Development Charges is compensatory fees and is integral part of terms of license granted by Director General, Town & Country Planning, Haryana under Section 3(3)(a) of Haryana Development and Regulation of Urban Area Act, 1975 and those External Development Charges are payable by virtue of section 3(3)(a)(ii) of the Act read with Section (2)(g) of the said Act and therefore, there was no quid pro quo element involved*

and was not a payment for services rendered and as such Section 194C of the Income Tax Act had no application on the payments made on account of External Development Charges to HUDA.

3.3 That the learned Addl/JCIT(A) -I Vadodara has failed to appreciate that a payment in the nature of statutory charges cannot be said to be a sum paid to HUDA for carrying out any work in pursuance to a contract between appellant company and HUDA and as such invocation of section 194C of the Act is based on fundamental misconception of facts and law and therefore, wholly unsustainable.

3.4 That even otherwise, the learned Addl/JCIT(A) -I Vadodara has failed to appreciate that HUDA is acting only on behalf of Town & Country Planning, Haryana, a State Government in terms of Section 196 of the Income Tax Act and is a statutory body of the Government and therefore, any payment made to HUDA is otherwise Same as Grounds of Appeal exempt under section 196 of the Income Tax Act is purely based on misconception and therefore, unsustainable.

4. That the appellant company craves leave to add, alter, amend, modify, substitute, delete and/or rescind all or any of the Ground of Appeal on or before the final hearing, if necessity so arises.”

3. At the outset, it is seen that the order of Ld. CIT(A) is *ex-parte*. We have heard the Ld. DR as none has appeared on behalf of the assessee. We note from the grounds of appeal that the assessee is aggrieved by the premature passing of the *ex-parte* appellate order, since the same was issued on 04.05.2025 whereas the assessee had been granted an opportunity to file written submissions on or before 05.06.2025 by the Ld. CIT(A). Thus the assessee was denied the opportunity of being heard.

4. In view of these facts and circumstances and in the interest of justice, we deem it appropriate to restore the matter to Ld. CIT(A) for fresh adjudication on merits after giving reasonable opportunity of being heard to the assessee.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 13-03-2026.

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Dated: 13.03.2026

Pooja Mittal, Sr. PS

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi