आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE

BENCH: B

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER

AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA 2193/BANG/2026 निर्धारण वर्ष/Assessment Year: **2016-17**		
STATE BANK OF INDIA - COMMERCIAL BRANCH KRISHI BHAVAN, HUDSON CIRCLE, BENGALURU-560001, KARNATAKA	**Vs.**	**JCIT, TDS, RANGE-3** HMT BHAVAN BELLARY ROAD BENGALURU-560032, KARNATAKA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee**:**		**BLRS04710G**
अपीलार्थी द्वारा/Appellant represented by:		**Sri. P. Manohar Gupta and Karthik G - CAs**
प्रत्यर्थी द्वारा/Respondent represented by:		**Sri. Keshav Choudhary - Addl. CIT**

सुनवाई की तारीख / Date of conclusion of hearing:	**09-Sept-2026**
घोषणा की तारीख / Date of pronouncement:	**07-Oct-2026**

आदेश / ORDER

PER SANDEEP SINGH KARHAIL, JUDICIAL MEMBER:

The assessee has filed the present appeal against the impugned order dated 17.03.2026, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["*learned CIT(A)*"] for the assessment year 2016-17.

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2. The sole grievance of the assessee is against the levy of penalty under section 271C of the Act for non-deduction of tax at source on reimbursement of Leave Fare Concession ("*LFC*")/Leave Travel Concession ("*LTC*") to the employees.

3. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is the Commercial Branch of State Bank of India in Bangalore. Pursuant to the survey conducted under section 133A of the Act in the business premises of State Bank of India, Local Head Office, on 26.12.2013, it was noticed that State Bank of India considered the reimbursement of LFC/LTC towards employees' foreign travel as exempt under section 10(5) of the Act. Accordingly, ACIT(TDS), Circle – 3(1), Bengaluru initiated proceedings under section 201 of the Act in the case of the assessee and issued a notice asking the assessee to show cause as to why it should be considered as an "*assessee in default*" for non-deduction of tax at source on reimbursement of LFC/LTC towards employees' foreign travel. After considering the submissions made by the assessee, an order under section 201(1) and section 201(1A) of the Act was passed treating the assessee as an "*assessee in default*" and raising a tax demand of Rs. 2,80,165/- under section 201(1) and levying an interest of Rs. 2,38,140/- under section 201(1A) of the Act.

4. In the meanwhile, penalty proceedings under section 271C of the Act were initiated. During the penalty proceedings, the assessee submitted that the TDS was not deducted on reimbursement of LFC/LTC to the employees

for travel outside India due to genuine and *bona fide* belief, which constitutes a reasonable cause under section 273B of the Act. Accordingly, the assessee prayed to drop the penalty proceedings initiated under section 271C of the Act. The AO-TDS, vide order dated 14.03.2025 passed under section 271C of the Act, disagreed with the submissions of the assessee and held that the matter regarding the LTC claims involving a foreign component and the exemption from TDS deduction has been conclusively resolved by the Hon'ble Supreme Court vide its order dated 04.11.2022 passed in Civil Appeal No. 8181 of 2022. The AO-TDS noted that the Hon'ble Supreme Court, vide its order, held that the moment an employee undertakes travel with a foreign leg, it is not travel within India and hence not covered under the provisions of section 10(5) of the Act. Accordingly, the AO/TDS held that the reimbursement made by the assessee to its employee on LTC availed for foreign tour is to be brought to tax as a taxable perquisite and hence the deductor was liable to deduct TDS on such payment. Since the assessee in the present case failed to deduct TDS on reimbursement of LTC to employees for travel outside India and has been treated as an "*assessee in default*", the AO-TDS held that the assessee is liable to pay a penalty under section 271C of the Act. Accordingly, the AO/TDS levied a penalty of Rs. 2,80,165/- under section 271C of the Act.

5. The learned CIT(A), vide impugned order, dismissed the appeal filed by the assessee and upheld the levy of penalty under section 271C of the Act for non-deduction of TDS on reimbursement of LFC/LTC to the

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employees for foreign travel. Being aggrieved, the assessee is in appeal before us.

6. During the hearing, the learned Authorised Representative ("*learned AR*") submitted that the Hon'ble Madras High Court, vide its interim order dated 16.02.2015 passed in Writ Petition No. 11991 of 2014, filed by the Bank Employees' Association challenging the circular issued by the Bank barring officers from undertaking foreign travel under LTC, extended the interim stay and clarified that any amount paid towards LTC or reimbursement of LTC would not amount to income so as to enable the Bank to deduct tax at source. It was further clarified that if the Writ Petition is dismissed, the employees shall be liable to pay tax on the amount paid by the Bank. Accordingly, the learned AR submitted that since the year under consideration is financial year 2015-16, on account of the binding directions of the Hon'ble Madras High Court vide its interim order dated 16.02.2015, no tax was deducted on the amount paid to the employees as reimbursement of LTC, as any deduction would have been contrary to the directions of the Hon'ble Madras High Court and would have exposed the Bank to contempt proceedings. The learned AR further submitted that the Hon'ble Kerala High Court in an appeal filed by the State Bank of India in ITA No. 45 of 2025 against the decision of the Tribunal for the assessment year 2016-17 after considering the interim directions of the Hon'ble Madras High Court vide order dated 16.02.2015 and the decision of the Hon'ble Supreme Court, placed reliance upon by the Revenue, vide its order dated 18.11.2025 held that in view of the interim directions of the Hon'ble Madras

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High Court the assessee bank could not have made any deduction of tax from the reimbursement of LTC to the employees. The learned AR submitted that the Hon'ble Kerala High Court accordingly decided the issue in favour of the assessee on the basis that for the financial year 2015-16 the interim directions issued by the Hon'ble Madras High Court governed the field and the assessee was justified in not deducting the tax at source from the reimbursement of LTC to the employees. It was further submitted that the Hon'ble Kerala High Court also noted that the findings of the Hon'ble Supreme Court in Civil Appeal No. 8181 of 2022, vide judgment dated 04.11.2022, were in respect of the assessment year 2013-14 and therefore are not applicable to the assessment year 2016-17. The learned AR further submitted that recently the Coordinate Bench of the Tribunal in the case of State Bank of India – RACPC, Mangalore vs. ITO, in ITA No. 747/Bang/2026, vide order dated 27.07.2026, following the decision of the Hon'ble Kerala High Court cited supra, held that the assessee cannot be treated as "*assessee in default*" for non-deduction of TDS on reimbursement of LTC to employees and thus no tax and interest can be levied under section 201(1) and section 201(1A) of the Act. Accordingly, the learned AR submitted that there was reasonable cause for not deducting tax at source from the reimbursement of LFC/LTC to employees towards foreign travel, and therefore, no penalty can be levied under section 271C of the Act.

7. On the other hand, the learned Department Representative ("learned DR"), by vehemently relying upon the order passed by the lower authorities, submitted that penalty under section 271C of the Act has been correctly

levied as the issue of non-deduction of tax on reimbursement of LTC to the employees towards foreign travel is now covered by the decision of the Hon'ble Supreme Court.

8. We have considered the submissions of both sides and perused the materials available on record. In the present case, there is no dispute regarding the fact that for the year under consideration, the assessee did not deduct the tax at source on the reimbursement of LFC/LTC to the employees towards foreign travel. Accordingly, the assessee was treated as "*assessee in default*" under section 201(1) of the Act and tax and interest were levied under the provisions of the said section. We find that in quantum proceedings, the assessee's appeal is currently pending consideration before the Hon'ble Karnataka High Court against levy of tax under section 201 and levy of interest under section 201(1A) of the Act. In the appeal before us, since the assessee failed to deduct tax on the reimbursement of LFC/LTC to the employees towards foreign travel, penalty under section 271C of the Act was levied. As per the assessee, on 16.02.2015, the Hon'ble Madras High Court, in the Writ Petition filed by the Employees' Association, specifically directed that the amount paid towards LTC would not amount to income, which would require the assessee to deduct tax at source. During the year under consideration, i.e. financial year 2015-16, the assessee did not deduct tax at source on the reimbursement of LTC to the employees on the basis that any deduction would have been contrary to the directions of the Hon'ble Madras High Court vide order dated

16.02.2015, exposing the Bank to contempt proceedings. On the contrary, as per the Revenue, the Hon'ble Supreme Court, vide its judgment dated 04.11.2022 passed in Civil Appeal No. 8181 of 2022, held that the reimbursement of LTC to the employees for foreign travel is not exempt under section 10(15) of the Act and therefore such amounts are taxable in the hands of the employees. Accordingly, since the assessee failed to deduct the TDS as per the provisions of Chapter XVII – B of the Act, as per the Revenue, it is a fit case for levy of penalty under section 271C of the Act.

9. We find that the Hon'ble Kerala High Court in State Bank of India vs. CIT, in ITA No. 45 of 2025, vide order dated 18.11.2025, after taking into consideration the interim directions of the Hon'ble Madras High Court vide order dated 16.02.2015 and the decision of the Hon'ble Supreme Court in Civil Appeal No. 8181 of 2022 held that for the financial year 2015-16, the assessee was bound by the interim directions of the Hon'ble Madras High Court to not deduct any tax on reimbursement of LTC to the employees for foreign travel. Accordingly, the Hon'ble Kerala High Court disagreed with the findings of the Tribunal in treating the assessee as "*assessee in default*" for non-deduction of tax on reimbursement of LTC to the employees. From the perusal of the said decision, copy of which is placed in the paper book, we find that the Hon'ble Kerala High Court held that the decision of the Hon'ble Supreme Court in Civil Appeal No. 8181 of 2022 is applicable in respect of assessment year 2013-14 and therefore cannot apply to the financial year 2015-16, which is governed by the interim directions of the Hon'ble Madras High Court. We find that recently, vide order dated

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27.07.2026 passed in ITA No. 747/Bang/2026, in State Bank of India – RACPC, Mangalore (supra), a Coordinate Bench of the Tribunal, after following the decision of the Hon'ble Kerala High Court in the assessee's own case, quashed the order passed under section 201 and section 201(1A) of the Act.

10. Therefore, having carefully perused the decisions cited supra and considered the submissions of both sides, we find merit in the plea of the assessee that there was sufficient cause, in terms of the provisions of section 273B of the Act, for non-deduction of tax at source on reimbursement of LTC to the employees. From the perusal of various decisions cited supra, it is further evident that the issue of deduction of tax at source on reimbursement of LTC to employees for the financial year 2015-16 is not yet finally settled and is therefore still debatable. It is well established that no penalty can be levied on an issue that is debatable. Accordingly, we are of the considered view that the penalty levied under section 271C of the Act in the facts of the present case is not sustainable. Thus, the same is quashed. As a result, the grounds raised by the assessee are allowed.

11. In the result, the appeal by the assessee is allowed.

Order pronounced in the open court on 07-Oct-2026.

Sd/-	**Sd/-**
(WASEEM AHMED)	**(SANDEEP SINGH KARHAIL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Bangalore,
Dated, the 07-Oct-2026

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1	**STATE BANK OF INDIA - COMMERCIAL BRANCH, KRISHI BHAVAN, HUDSON CIRCLE, BENGALURU-560001, KARNATAKA**
2	**JCIT, TDS, RANGE-3, HMT BHAVAN BELLARY ROAD, BENGALURU-560032, KARNATAKA**
3	THE PCIT / CIT,
4	THE D.R., ITAT, BANGALORE BENCH
5	GUARD FILE

BY ORDER

ASSISTANT REGISTRAR
I.T.A.T., BANGALORE

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