IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES, "SMC" BENCH, JAIPUR

BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No. 143/JPR/2026
(Assessment Year:2017-18)

SBI (erstwhile SBBJ) Deen Dayal Park, Chahbadroad, Baran Jaipur	Vs.	ITO (TDS) Room No.112, Central Revenue Building C.A.D. Circle Kota
स्थायीलेखासं./जीआइआरसं./PAN/GIR No:JDHS08234C		
Appellant	..	Respondent

Appellant by :	Sh. Vijay Gupta, CA
Respondent by :	Mrs. Arti Rawat,JCIT

Date of Hearing	15.07.2026
Date of Pronouncement	13.10.2026

O R D E R

Per Annapurna Gupta, AM:-

The present appeal has been filed by the assessee against the order passed by the Office of the Commissioner of Income Tax, Appeal Addl/JCIT(A) 03 Hyderabad (hereinafter referred to as "Ld. CIT(A)"), dated 30.11.2025 under Section 250of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. The grounds raised by the assessee read as under:-

1. The Learned Assessing Officer (AO) erred in law and on facts by initiating and concluding proceedings against the State Bank of Bikaner and Jaipur (SBBJ), a non-existent entity following its merger with the State Bank of India (SBI). The proceedings initiated and concluded in the name of the erstwhile entity are void-ab-initio, illegal, and unsustainable in law. Therefore, the assessment order deserves to be quashed or set aside.

2. Without prejudice to the GOA-1, under the facts and circumstances of the case the Ld. AO lacked jurisdiction to adjudicate the matter under Section 201(1) and 201(1A) of the Act. The statutory powers to initiate and conclude such proceedings are vested exclusively with the Joint Commissioner of Income Tax (JCIT) or Additional Commissioner of Income Tax (ACIT) Therefore, the action of the AO is without legal authority, and the assessment order passed is invalid and unsustainable in law.

3. Without prejudice to the GOA-1 to 2, under the facts and circumstances, the Hon'ble CIT (Appeals) erred in confirming the order dated 28.07 2023, as the reference number (DIN) was affixed manually which is in violation of the CBDT Circular No. 19/2019 dated 14th August, 2019. Thus, the proceedings and order were not in accordance to CBDT Circular and judicial pronouncements and therefore, the action of the Ld. A.O. was illegal and therefore deserves to be quashed or set aside.

4. Without prejudice to the GOA-1 to 3, the Ld. Assessing Officer (AO) erred in law by initiating proceedings under section 201/201(1A) of the Income-tax Act, 1961, without invoking the appropriate inquiry powers under section 133(6) of the Act. Section 201 pertains only to the assessment of TDS defaults and does not confer any independent power for inquiry or information gathering, the proceedings and the order dated 28.07.2023 are without jurisdiction and void ab initio. Further, the defect in jurisdiction is not curable under section 292BB of the Act. Therefore, the impugned order deserves to be quashed.

5. Without prejudice to GOA 1 to 4, under the facts and circumstances of the case the Ld. AO erred in confirming the demand raised against the appellant (deductor bank) during the pendency of Special Leave Petition (SLP) No. 16734/2023 before the Hon'ble Supreme Court and its corresponding stay order. The appellant bank was expressly restrained from making anyrecoveries from the employees. Therefore, the assessment order passed under Section 201/201(1A) of the Act is untenable and deserves to be quashed or set aside.

6. Without prejudice to the GOA-1 to 5, under the facts and circumstances of the case, the Hon'ble CIT (Appeals) erred in confirming the order passed by the Ld. AO and considering the bank as assessee-in-default despite knowing the fact that the bank is under this bonafide belief of not deducting the TDS amount in LTC due to the bank

circulars and not initiating any proceedings against the "assessee-employee" who was liable to pay the tax liability on the benefit of LTC, in terms of the provisions of the Act which creates the equal responsibility on the assessee-employee in respect of Section-4(1) 1e charge of income r.w.s sections-190 and section-191(1). Thus, considering the provisions stated herein above, the bank cannot be treated as the assessee in default and therefore, the assessment order deserves to be quashed and set-aside.

7. Without prejudice to the GOA-1 to 6, under the facts and circumstances of the case, the Hon'ble CIT & the Ld. AO crred in not considering the fact that the assessee-deductor bank is bound by the orders of the Hon'ble High Court & Apex Court during the matter in pendency and therefore, taking any action by them would have resultant to contempt of court. However, during the proceedings before the Hon'ble Courts, the department is nowhere bound to issue any notice to any of the employees who actually enjoyed the benefit of LTC and initiating proceedings solely on the assessee-bank is against the Principle of Natural Justice. Thus, the assessment order passed u/s 201/201(1A) of the Act deserves to be quashed and set-aside.

8. The assessee reserves the right to add, alter, amend, modified or delete of the any grounds of appeals before or at the time of hearing.

3. The issue in dispute before me relates to the assessee bank being held to be an assessee in default in terms of Section 201 of the Act for not having deducted TDS on LTC paid to its employees allegedly on foreign travel undertaken. The facts of the case are that, the assessee, M/s. State Bank of Bikaner and Jaipur is a Regional Business Office (RBO) of M/s. State Bank of India (SBI), which is engaged in the business of banking. The AO initiated proceedings u/s 201(1) of the Act to verify whether the assessee had complied with the TDS provisions with regards to leave fair concession availed by its employees during the relevant period i.e. FY 2016-17 relevant to AY 2017-18. This exercise was done by the AO in the backdrop of the decision of the Hon'ble Supreme Court in the case of the assessee i.e. SBI in Civil Appeal No. 8181 of 2022, vide order dated 04.11.2022 holding that once an employee undertakes travel involving a foreign leg, such travel cannot be regarded as travel "within India" and, therefore, does not fall

within the ambit of section 10(5) of the Act, for being treated as exempt from taxation and that the assessee Bank, the employer has to discharge its statutory obligation u/s 192(1) of the Act by deducting tax on the LTC so paid for undertaking foreign travel to its employees. The AO obtained information regarding employees who had traveled on LTC during the relevant period i.e. FY 2016-17 relevant to AY 2017-18 and thereafter, vide order passed u/s 201 and 201(1A) of the Act dated 28.07.2023 held the assessee to be assessee in default for non-deduction of TDS on amount of Rs2,21,156/- of LTC paid. The relevant portion of order is extracted below:

> *In view of the above, the payment made by deductor comes under the purview of contract for salary u/s 192 of income tax Act, 1961. The calculation of TDS and interest on Late payment of TDS on salary payment is as under:*

Date of sanction	***Payment made***	***TDS to be made thereon***	***Months***	***Interest on late payment of TDS upto date of Order***
26.07.2016	*Rs.2,21,156/-*	*63,034/-*	*84*	*52,950/-*

> *In view of the above discussion and facts in this case, the deductor is treated as assessee in default u/s 201(1)/201(1A) for non deduction and deposition of tax deducted at source on which TDS of Rs.63,034/- and interest thereon u/s 201(1A) of the LT. Act of Rs.52,950/- totalling demand to Rs.1,15,984/- in FY 2016-17 is hereby raisedDemand notice and Challan are issued accordingly.*
>
> *As discussed above, the deductorassessee has failed to deduct TDS in stipulated time, therefore, the case is being referred to the Additional Commissioner of Income Tax, TDS Range, Udaipur for initiating penalty proceedings u/s 271C of the Income Tax Act, 1961.*

4. Aggrieved by the same, the assessee preferred appeal before the Ld. CIT(A), who confirmed the order passed by the AO.

5. Before me, ld. Counsel for the assessee submitted that identical issue has consistently been decided in favour of the assessee by various

decisions of the ITAT and the Hon'ble Kerala High court .He drew our attention to the following decisions:-

- State Bank of India Vs. JCIT in ITA No.1391/JPR/2024 dated 13.03.2025
- State Bank of India Vs. ACIT/DCIT-TDS, in ITA No.728/JPR/2024 dated 07.01.2025
- State Bank of India Vs. ITO in ITA No. 1817/Ahd/2026 dated 25.08.2026
- Hon'ble Kerala High court in ITA No.45 of 2025 dated 18-11-25.

6. Drawing my attention to the aforesaid decisions, it was pointed out that it was consistently held that the assessee could not be treated as assessee in default for not deducting TDS on the LTC paid to its employees, since the fact was that during the impugned period, the assessee Bank was prevented from deducting TDS on reimbursement of LTC paid to its employees because of the interim directions of the Hon'ble Madras High Court restraining the assessee bank from deducting TDS. It was pointed out that even the Hon'ble Kerala High Court took note of the same facts and held that the assessee-SBI was under obligation not to deduct tax at source and therefore could not be held to be assessee in default for non-deduction of tax at source on the LTC/LFC payments.

7. Ld. DR however, stated that the issue was settled by the decision of the Hon'ble Apex Court in the case of the assesseeitself, i.e SBI, for AY 2013-14 holding that foreign travel is not covered under LTC for being treated as exempt u/s 10(5) of the Act, and the assessee employer was liable to deduct tax at source, as it was its statutory duty u/s 192(1) of the Act.

8. I have heard the rival contentions. Both the parties before me have referred to rulings of Court in their favour on the issue whether the assessee before us, i.e. SBBJ a unit of SBI, could be treated as assessee in default for not having deducted TDS ON LTC paid for foreign travel to its employees in F.Y 2016-17 , pertaining to A.Y 2017-18. While the assessee has referred to the various decisions of ITAT and the Hon'ble Kerala High Court in its favour, the Ld. DR on the other hand has referred to the decision of the Hon'ble Apex Court in this regard.

9. I have gone through both the set of decisions and though, all the decisions referred to before me are in the identical context of the AO holding the assessee to be assessee in default for not having deducted tax at source on reimbursement or payment of LTC on foreign travel undertaken by its employees, but both the set of judgements, I find, have been rendered in different background of facts.

10. Undisputedly, all the orders have been rendered in the background of identical set of facts, where the employees of the assessee bank had travelled not just within India but their journey involved foreign leg alsoand had been paid LTC for the same by the assessee bank.

11. The Hon'ble Apex Court interpreted the provision of law and held that Section 10(5) of the Act, which exempts payments received as LTC,entitles only travel undertaken to a domestic destination. The Hon'ble Apex Court categorically held that the moment employees undertake travel with a foreign leg which is not travelled within India it

is not covered under the provisions of Section 10(5) of the Act. The Hon'ble Apex Court noted that the foreign travel frustrates the basic purpose of LTC, which was to familiarize a civil servant or a Government employee to gain some perspective of Indian culture by travelling in the vast Country. The Hon'ble Apex Court took the note that for this reason alone the 6th pay commission rejected the demand of paying cash compensation in lieu of LTC and also rejected the demand of foreign travel, noting that it is not in a consonance with the basic objective of the scheme which is to gain perspective of the Indian culture. The relevant findings of the Hon'ble Apex Court are contained at para 10 to 15 of its order as under:-

> ……
> *10. The provisions of law discussed above prescribe that the air fare between the two points, within India will be given and the LTC which will be given will be of the shortest route between these two places, which have to be within India. A conjoint reading of the provisions discussed herein with the facts of this case cannot sustain the argument of the appellant that the travel of its employees was within India and no payments were made for any foreign leg involved.*
> *11. We do not want to get into the role of the travel agencies and the present dynamics of air fare, but it is difficult for us to accept that a person will avail foreign tour without paying any price for it. We leave it at that.*
> *12. It can be seen from the records that many of the employees of the appellants had undertaken travel to Port Blair via Malaysia, Singapore or Port Blair via Bangkok, Malaysia or Rameswaram via Mauritius or Madurai via Dubai, Thailand and Port Blair via Europe etc. It is very difficult to appreciate as to how the appellant who is the assessee-employer could have failed to take into account this aspect. This was the elephant in the room.*
> *13. The contention of the Appellant that there is no specific bar under Section 10(5) for a foreign travel and therefore a foreign journey can be availed as long as the starting and destination points remain within India is also without merits. LTC is for travel within India, from one place in India to another place in India. There should be no ambiguity on this.*
> *14. The second argument urged by the appellant that payments made to these employees was of the shortest route of their actual travel cannot be accepted either. It has already been clarified above, that in view of the provisions of the Act, the moment employees*

undertake travel with a foreign leg, it is not a travel within India and hence not covered under the provisions of Section 10(5) of the Act.

15. A foreign travel also frustrates the basic purpose of LTC. The basic objective of the LTC scheme was tofamiliarise a civil servant or a Government employee to gain some perspective of Indian culture by traveling in this vast country. It is for this reason that the 6th Pay Commission rejected the demand of paying cash compensation in lieu of LTC and also rejected the demand of foreign travel. In para 4.3.4 of the 6th Pay Commission Report dated March, 2008 this is what was said :-

> *"4.3.4. The demand for allowing travel abroad at least once in the entire career under the scheme is not in consonance with the basic objective of the scheme. The Government employee cannot gain any perspective of the Indian culture by traveling abroad. Besides, the attendant cost in foreign travel would also make the expenditure under this scheme much higher. The Commission is, therefore, not inclined to concede the demand to allow foreign travel under LTC."*

This is also an objection of the Revenue which has been raised in its counter affidavit filed by respondent no. 1-Assistant Commission of Income Tax wherein the Revenue has asserted that the provision for LTC was introduced to motivate employees and encourage its employees towards tourism in India andit is for this reason that reimbursement of LTC was exempted. There was no intention of legislature to allow the employees to travel abroad in the garb of LTC available by virtue of Section 10(5) of the Act. Therefore, the Revenue has a valid objection (apart from other objections which are clearly violative of the Statute), that the intention and purpose of the scheme is also violated in the garb of tour within India, foreign travel is being availed.

……

12. The Hon'ble Apex Court thereafter held that the assessee bank cannot claim ignorance about the travel plans of its employees, for not deducting TDS on LTS paid, noting that during settlement of LTC bills the complete facts were available before the assessee bank about the details of their employees' travels. The Hon'ble Apex Court held that non deduction of TDS by the assessee bank could not be a case of a bona fide mistake, as all the relevant facts were before the assessee employer and it was fully in a position to calculate the estimated income of its employees. The Hon'ble Apex Court therefore held that since all the relevant documents and material were there before the

assessee bank at the relevant time the assessee employer therefore ought to have applied its mind and deducted tax at source as it was its statutory duty, u/s 192(1) of the Act. Thefindings of the Hon'ble apex court in this regard are contained at para 16 of the order as under:-

> .....
>
> *16. The aforementioned order passed by the CIT(A) has rightly held that the obligation of deducting tax is distinct from payment of tax. The appellant cannot claim ignorance about the travel plans of its employees as during settlement of LTC Bills the complete facts are available before the assessee about the details of their employees' travels. Therefore, it cannot be a case of bonafide mistake, as all the relevant facts were before the Assessee employer and he was therefore fully in a position to calculate the 'estimated income' of its employees. The contention of Shri K.V. Vishwanathan, learnedsenior advocate that there may be a bonafide mistake by the assessee-employer in calculating the 'estimated income' cannot be accepted since all the relevant documents and material were before the assessee- employer at the relevant time and the assessee employer therefore ought to have applied his mind and deducted tax at source as it was his statutory duty, under Section 192(1) of the Act.*
>
> ……

13. Thus, clearly Hon'ble Apex Court interpreted the provisions of Section 10(5) of the Act and held that benefit of exemption is available only for domestic travel and not for any travel which includes in its itinerary travel to a foreign destination also and noting so it held that since all facts of the travel were before the assessee bank it ought to have deducted tax at source in terms of Section 192(1) of the Act. The decision pertains to A.Y 2013-14.

14. The decisions ruling in favour of the assessee i.e. the decision of the Hon'ble Kerala High Court in ITA No.45 of 2025 and the several decisions of the ITAT as noted above, held that theassessee could not be treated as assessee in default since it was estopped by order of court

from deducting TDS. The ITAT Ahmedabad in the case of **State Bank of India Vs. ITO In ITA No.1817/Ahd/2026 dated 25.08.2026 has** dealt with the issue at para 2 to 9 of its order as under:-

2. The sole and common issue involved in all the captioned appeals is as to whether the Assessing Officer (in short 'the AO') was justified in treating the assessees, which are separate branches of the State Bank of India (in short 'SBI'), as assessees in default, u/s 201(1) and 201(1A) of the Act for non-deduction of TDS on the amount paid as Leave Travel Concession (in short 'LTC') for undertaking the foreign journeys or journeys involving foreign leg.

3. SBI had been providing reimbursement of LTC to its employees. Pursuant to a Circular dated 15.04.2014 issued by the Bank, the LTC as regards overseas travel facilities to the employees, stood withdrawn. The Circular was challenged before the Hon'ble Madras High Court at the instance of the Association of employees of the bank. The Madras High Court vide order dated 25.04.2014 stayed operation of the Circular. Later on, the aforesaid stay order was sought to be modified / clarified at the instance of the petitioners. The Hon'ble Madras High Court, therefore, issued interim order dated 16.02.2015 in W P No.11991 of 2014 clarifying the said order as under:

"5. There is no dispute that the Bank would be paying LTC amount to the concerned officers pursuant to the interim order granted by this Court. The Interim Order is subject to the result of the writ petition. The learned counsel for the petitioner is correct in his contention that the there is no taxable income for deduction at source.

6. The interim order granted by this Court is explained to the effect that any amount paid to the petitioner towards ***LTC or re-imbursement of LTC pursuant to the impugned order would not amount to income so as to enable the Bank to deduct tax at source. It is made clear that if the writ petition is dismissed, the employees are liable to pay tax on the amount paid by Bank."***

(emphasis supplied)

4. The employees of the SBI in their return of Income, treated the LTC reimbursement as exempt u/s 10(5) of the Act. Pursuant to the above stated interim directions of the Hon'ble Madras High Court, SBI and its various branches, did not deduct TDS upon the remittance to their employees on

account of reimbursement of LTC involving foreign journeys or journeys involving foreign leg during F.Y. 2015-16 relevant to A.Y. 2016-17.

5. However, the aforesaid writ petition filed by the Association of employees of Bank was ultimately dismissed on 24.06.2022, against which, W.A. No.1653 of 2022 was filed, wherein, vide order dated 08.08.2022 interim directions were issued by the Hon'ble High Court interdicting assessees / banks from making recovery from salary of the employees. Ultimately, the Division Bench of Hon'ble Madras High Court vide order dated 08.06.2023 set aside the order passed by the Single Bench and the matter was remanded to the bank authorities for fresh consideration in respect to grant of LTC to cover foreign travel on merits in accordance with law.

6. The aforesaid judgment of the Hon'ble Madras High Court was again challenged by the assessee Bank before the Hon'ble Apex Court. The Hon'ble Supreme Court vide order dated 28.08.2023 passed in Special Leave to Appeal (C) No (s). 16734/2023, while issuing notice to the Respondents, restrained the bank from making recoveries from employees during the pendency of the matter.

7. During the course of assessment proceedings, the AO noticed that certain employees had undertaken foreign journeys or journeys involving a foreign leg. The AO observed that exemption u/s 10(5) of the Act was available only in respect of travel within India and not in respect of journeys where foreign travel is involved.

8. However, the issue is no more res integra as various benches of this Tribunal has decided the issue in favour of the SBI Bank holding that the assessee bank was prevented from deducting the TDS on the reimbursement of LTC paid to its employees because of the interim directions of the hon'ble Madras High Court restraining the SBI to do so. Even the Hon'ble Kerala High Court, in ITA No.45 of 2025 (order dated 18th November 2025) has held that the assessee (SBI) under the circumstances, was under an obligation not to deduct tax at source and therefore, the assessee could not be held to be assessee in-default for non-deduction of tax at source on impugned LFC payments. The co-ordinate Ahmedabad Bench of the Tribunal in ITA Nos.453 & 454/Ahd/2026 in the case of "State Bank of India Bhavnagar Para Branch vs. ITO, vide order dated 26.03.2026, in the identical facts and circumstances, after taking note of the above decision of the hon'ble Kerala High Court and also of the decision of the other co-ordinate Bench of this Tribunal, has held as under:

> *"3. The brief facts of the case are that the assessee is a branch of State Bank of India which had provided Leave Fare Concession (LFC) to its employees and had treated the*

same as exempt under section 10(5) of the Income-tax Act ("the Act") while computing TDS under section 192 of the Act. During the course of assessment proceedings, the Assessing Officer noticed that certain employees had undertaken journeys involving a foreign leg and the assessee had not deducted tax at source on such payments. Accordingly, notices were issued to the assessee asking it to explain as to why it should not be treated as an assessee in default under section 201(1) and liable for interest under section 201(1A) of the Act.

*4. In response, the assessee submitted that the LFC benefit was granted strictly in accordance with section 10(5) of the Act read with Rule 2B, as the designated place of travel was within India and the reimbursement was restricted to the fare of the shortest route within India. The assessee further submitted that there is no explicit prohibition in the Act or Rules against a foreign leg in the course of such travel. The assessee also relied upon industry practice, guidelines issued by the Indian Banks' Association, and various judicial precedents to contend that the assessee had acted under a bona fide belief and therefore could not be treated as an assessee in default. Further t**he assessee placed reliance on interim orders of the Hon'ble Madras High Court, wherein it was held that LFC payments would not amount to income for the purpose of TDS during the pendency of the writ proceedings, and therefore the assessee could not have deducted tax without violating the court's directions**.*

*5. However, the Assessing Officer did not accept the contentions of the assessee. the Assessing Officer, relying upon the judgment of the Hon'ble Supreme Court dated 04.11.2022, held that exemption under section 10(5) of the Act is available only in respect of **travel within India and not where foreign travel is involved**. The Assessing Officer observed that once the journey includes a foreign leg, the exemption is not admissible and the amount becomes taxable in the hands of the employee. Accordingly, the assessee was held to be an assessee in default for non-deduction of tax at source and demand under section 201(1) along with interest under section 201(1A) was raised.*

6. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the CIT(Appeals). Before CIT(Appeals), the assessee reiterated its submissions regarding compliance with Rule 2B, absence of any statutory bar on foreign travel during the journey, and its bona fide belief supported by judicial precedents. It was also contended that the Bank had only allowed exemption where the designated place was in India and that the foreign leg was merely incidental.

7. The CIT(A), however, did not accept the submissions of the assessee. The CIT(Appeals) observed that a combined reading of section 10(5) of the Act and Rule 2B clearly indicates that the exemption is available only for travel from one place in India to another place in India by the shortest route. The CIT(A) further

relied upon the decision of the Hon'ble Supreme Court dated 04.11.2022, wherein it was categorically held that LTC/LFC exemption is not available in cases where the travel involves a foreign leg. The CIT(Appeals) held that the moment foreign travel is involved, the journey ceases to be a journey within India and therefore falls outside the scope of section 10(5) of the Act.

8. With regard to the argument of bona fide belief and reliance on earlier judicial orders, the CIT(A) held that in view of the authoritative pronouncement of the Hon'ble Supreme Court, the issue has attained finality and the assessee cannot escape liability on this ground. The CIT(A) further held that the Assessing Officer was justified in treating the assessee as an assessee in default and in raising demand under section 201(1) along with interest under section 201(1A). Accordingly, all the grounds raised by the assessee were dismissed and the order of the Assessing Officer was upheld.

9. The assessee is in appeal before us against the order passed by the CIT(Appeals) dismissing the appeal of the assessee.

10. We have heard the rival contentions and perused the material on record.

11. We have heard the rival contentions and perused the material available on record.

12. At the outset, we note that the issue on merits regarding allowability of exemption under section 10(5) of the Act in cases where the journey involves a foreign leg now stands concluded against the assessee by the judgment of the Hon'ble Supreme Court dated 04.11.2022. There is no dispute on this legal position and the same is duly acknowledged. However, the limited controversy before us is whether, in the peculiar facts of the present case, the assessee can be treated as an "assessee in default" under section 201(1) of the Act for non-deduction of tax at source during the relevant period.

13. The contention of the assessee has consistently been that during the year under consideration, it was bound by the interim orders passed by the Hon'ble Madras High Court in W.P. No.11991 of 2014, wherein vide order dated 16.02.2015 it was specifically clarified that the LFC payments would not amount to income so as to enable deduction of tax at source and further that if the writ petition was ultimately dismissed, the employees would be liable to pay tax. The assessee has submitted that in view of such binding judicial directions, it could not have deducted tax at source and any such deduction would have amounted to disobedience of the order of the Hon'ble High Court.

14. We find considerable merit in the aforesaid contention of the assessee. The interim directions of the Hon'ble Madras High Court were in force during

the relevant previous year and the assessee, being a party to the proceedings, was duty bound to comply with the same. The obligation under section 192 of the Act to deduct tax at source cannot be read in isolation and must yield to binding judicial orders. Therefore, the failure to deduct tax in such circumstances cannot be equated with a default contemplated under section 201(1) of the Act.

15. We further find that an identical issue has been considered by the Co-ordinate Bench of the Tribunal in the case of ***State Bank of India in ITA No.514/Agr/2024****, wherein after considering the decision of the Hon'ble Supreme Court as well as the interim orders of the Hon'ble Madras High Court, ITAT held that the assessee bank could not be treated as an assessee in default since it was bound to follow the interim directions of the Hon'ble High Court. The Tribunal categorically observed that the assessee had no option but to comply with the orders of the Hon'ble High Court and non-deduction of tax in such circumstances could not invite the rigours of section 201(1) and 201(1A) of the Act.*

16. More importantly, the ***Hon'ble Kerala High Court in ITA No.45 of 2025*** *(order dated 18th November 2025) has examined this issue in detail and has held in favour of the assessee. The relevant findings of the Hon'ble High Court, which have a direct bearing on the issue before us, are reproduced below for ready reference:*

"The interim order granted by this Court is explained to the effect that any amount paid to the petitioner towards LTC or re-imbursement of LTC pursuant to the impugned order would not amount to income so as to enable the Bank to deduct tax at source. It is made clear that if the writ petition is dismissed, the employees are liable to pay tax on the amount paid by Bank."

"It is only when the appellant-assessee, after having a liability to deduct tax, fails to do so, the question of invoking Section 201 of the Act and treating it as an 'assessee in default' arises. Here, the Madras High Court found, prima facie, that the amount paid would not be the income of a payee so as to deduct tax. Therefore, we are of the opinion that the provisions of Section 201(1) of the Act are not attracted to the case at hand."

"The appellant-assessee was under an obligation not to deduct tax at source and therefore, the assessee could not be held to be assessee in-default for non-deduction of tax at source on impugned LFC payments."

17. The Hon'ble High Court has thus clearly held that where the assessee was restrained by judicial orders from deducting tax at source, the provisions of section 201 of the Act cannot be invoked and the assessee cannot be treated as an assessee in default.

18. In the present case also, the facts are materially identical. The assessee was operating under the binding interim directions of the Hon'ble Madras High Court during the relevant period and therefore could not have deducted tax at source. The subsequent decision of the Hon'ble Supreme Court, though settling the issue on merits, cannot retrospectively fasten liability under section 201(1) of the Act for a period during which the assessee was acting in compliance with judicial orders.

19. We also find force in the argument of the assessee that the scheme of section 201 of the Act itself contemplates that a person can be treated as an assessee in default only when there is a failure to deduct tax in spite of a legal obligation to do so. In the present case, such legal obligation stood eclipsed by the interim directions of the Hon'ble High Court.

20. In view of the above discussion, respectfully following the decision of the Hon'ble Kerala High Court in ITA No.45 of 2025 and the decision of the Co-ordinate Bench in ITA No.514/Agr/2024, we hold that the assessee cannot be treated as an assessee in default under section 201(1) of the Act for the impugned period. Consequently, the interest charged under section 201(1A) also does not survive.

21. Accordingly, we direct the Assessing Officer to delete the demand raised under section 201(1) and 201(1A) of the Act."

9. We are in agreement with the above decision of the co-ordinate bench of the Tribunal. Since the assessees were under legal obligation to comply with the orders of the Hon'ble Madras High Court (supra), hence the assessees, herein, can not be termed as assessees in default under section 201(1) of the Act for the impugned period and interest cannot be charged from them under section 201(1A). Accordingly, the demand raised by the Assessing Officer under section 201(1) and 201(1A) of the Act, is hereby set aside.

15. A perusal of the above judgement reveals thatall decisions holding the assessee to be not an assessee in default are based on appreciation of facts peculiar to the assessment years before it. All these decisions record the following chronology of events/facts:-

- That SBI had been providing reimbursement of LTC to its employees even for foreign travel.

- Pursuant to circular dated **15.04.2014** issued by the Bank, the LTC as regards overseas travel facilities to its employees stood withdrawn.
- This circular was challenged before the Hon'ble Madras High Court at the instance of the Association of employees of the Bank. The Hon'ble Madras High Court vide order dated **25.04.2014** stayed operation of the circular.
- **Later on the stay order was sought to be modified/clarified by issuing interim order dated 16.02.2015 in writ petition No.11991 of 2014 clarifying that during the pendency of the stay of the circular issued by the Bank ,the Bank would be paying LTC to its employees and vide the interim order, it was explained that any amount paid to the petitioners towards LTC or reimbursement of LTC would not amount to income so as to enable the bank to deduct tax at source. The interim order made it clear that if the writ petition was dismissed, the employees would be liable to pay tax on the amount paid by the Bank.And pursuant to the above stated interim direction of the Hon'ble Madras High Court, SBI and its various branches was barred from deducting TDS on the remittance to their employees during the FY 2015-16 till the disposal of the writ petition.**
- **The writ petition filed by the Association of Employees of the Bank was ultimately dismissed on 24.06.2022.**

- **Against the aforesaid order WA No. 1653 of 2022 was filed wherein vide order dated 08.08.2022 interim directions were issued by the Hon'ble High Court interdicting/prohibiting assessees'/Banks from making recovery from the salary of the employees.**
- **Ultimately the Division Bench of the Hon'ble Madras High Court vide order dated 08.06.2023 set aside the order passed by the Single Bench and the matter was remanded to the Bank Authorities for fresh consideration in respect to grant of LTC to cover foreign travel on merits in accordance with law.**
- **The judgment of the Hon'ble Madras High Court was again challenged by the assessee Bank before the Hon'ble Apex Court vide order dated 28.08.2023 passed in Special Leave to Appeal (C) No (s). 16734/2023 while issuing notices to the respondents, restrained the bank from making recoveries from employees during the pendency of the matter.**

16. Taking note of the above chronology, the Courts held that in view of the decision of the Hon'ble Madras High Court and the Hon'ble Apex Court, the assessee bank was under the legal obligation not to deduct TDS on the reimbursement of LTC paid to its employees. Even the Hon'ble Kerala High Court held that the assessee SBI , under the circumstances was under obligation not to deduct tax at source.

17. Considering therefore both the decision of the Hon'ble apex court and that of the Hon'ble Kerala High court and the ITAT, what is

derived is that the Hon'ble apex court decision was for A.Y 2013-14 , deciding the issue of liability of the assessee bank to deduct TDS on LTC after interpreting the law applicable and was rendered on 04-11-2022.

18. The decision of the ITAT and the Hon'ble Kerala High Court pertain to different assessment years i.e. AY 2016-17 and AY 2017-18 and have held that the assessee to be not in default for not deducting TDS not by applying the law in this regard, but by noting that the assessee was prevented by the order of the Hon'ble Madras High Court from deducting TDS.

19. The basis and the context in which both the decisions have been rendered are completely different. The Hon'ble Apex Court has interpreted the law while holding the assessee to be liable to deduct TDS, while the decisions of the ITAT and the Hon'ble Kerala High Court have noted the inability of the assessee to deduct TDS on account of the order of the Hon'ble Madras High Court and accordingly held the assessee to be not an assessee in default. The decision of the Hon'ble Apex Court does undoubtedly lay down the law, but at the same time for holding the assessee in default the fact that the assessee was precluded from deducting TDS, noted by the ITAT and the Hon'ble Kerala High Court also, is a very vital fact and cannot be ignored. Therefore, though the law as laid down by the Hon'ble Apex Court prevails and the assessee is liable for deducting TDS on the LTC paid for foreign travel, however at the same time if it

is prevented from doing so, being bound by the order of the Hon'ble Madras High Court, the assessee cannot be faulted for not having deducted the TDS as held by the Hon'ble ITAT and the Hon'ble Kerala High Court.

20. The facts of the present case and the assessment year involved in the present case being identical to that dealt with by the ITAT in its decisions earlier the said decisions will apply following which I hold that the assessee cannot be held to be an assessee in default u/s 201 of the Act.

21. With the above observations and findings, I decide the issue in favour of the assessee and allow the appeal of the assessee.

22. In effect, the appeal of the assessee is **allowed.**

Order pronounced in the Open Court on 13.10.2026

Sd/-
(Annapurna Gupta)
ACCOUNTANT MEMBER

Dated 13.10.2026
Mittali, Sr. PS
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

By Order,

Asst. Registrar
ITAT, Jaipur