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

BENCH: B

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT AND SHRI SOUNDRARAJAN K., JUDICIAL MEMBER

ITA Nos. 551 & 556/Bang/2026 (निर्धारण वर्ष/Assessment Years : **2019-20 & 2018-19**)		
SHORE DWELLINGS PRIVATE LIMITED 41, MANTRI HOUSE, VITTAL MALLYA ROAD, BENGALURU-560001, KARNATAKA	**Vs.**	**JCIT,** TDS RANGE-2, HMT BHAWAN, #59, BELLARY ROAD, GANGANAGAR BENGALURU-560032, KARNATAKA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee:		**AAACZ3029P**
अपीलार्थी द्वारा/Appellant represented by:		**Sri V. Srinivasan, Advocate**
प्रत्यर्थी द्वारा/Respondent represented by:		**Sri Pradeep S – Addl. CIT**

सुनवाई की तारीख / Date of conclusion of hearing:	**23-Jul-2026**
घोषणा की तारीख / Date of pronouncement:	**15-Oct-2026**

आदेश / ORDER

PER SHRI PRASHANT MAHARISHI, VICE PRESIDENT

1. These two appeals, filed by the same assessee, involve a common issue. They were therefore heard together and are disposed of by this common order.

2. Both appeals concern the penalty imposed under section 271C of the Income-tax Act. The assessee credited interest on inter-corporate deposits to its group concerns and deducted tax at source but neither paid the interest nor remitted the tax to the Central Government. It later obtained Forms 26A from all recipients, confirming that they had offered the interest income to tax. Nevertheless, the Joint Commissioner imposed the penalty, which was subsequently upheld.

3. ITA No. 551/Bangalore/2026 arises from the appellate order dated 4 February 2026 passed by the National Faceless Appeal Centre, Delhi (the learned CIT(A)), for Assessment Year 2019–20. By that order, the learned CIT(A) dismissed the assessee's appeal against the penalty order dated 31 December 2024 passed under section 271C of the Income-tax Act, 1961, by the Additional Commissioner of Income-tax, TDS Range-2, Bangalore (the learned Assessing Officer).

4. ITA No. 556/Bangalore/2026 is against the appellate order passed by the National Faceless Appeal Centre, Delhi, for Assessment Year 2018–19, dated 4 February 2026, wherein the penalty order passed under section 271C of the Act, dated 31 December 2024, passed by the Joint Commissioner of Income Tax (TDS), Range–2, Bangalore (the learned Assessing Officer), was dismissed.

5. The Assessee has raised the following grounds of appeal:

ITA No. 551-Bang-2026:

1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned CIT[A]/NFAC is not justified in upholding the levy of penalty u/s.271C of the Act, to the extent of Rs.3,23,44,461/- under the facts and in the circumstances of the appellant's case.

2.1 The learned CIT[A]/NFAC ought to have appreciated that the appellant has not committed any default for levy of penalty u/s.271C of the Act, under the facts and in the circumstances of the appellant's case.

3. Without prejudice to the above, the learned CIT[A]/NFAC ought to have appreciated that the appellant was prevented by reasonable cause for not deducting the TDS and consequently, no penalty u/s.271C of the Act was leviable.

4. Without prejudice to the above, the penalty levied is excessive and deserves to be reduced substantially.

5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.

ITA No. 556-Bang-2026:

1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned CIT[A]/NFAC is not justified in upholding the levy of penalty u/s.271C of the Act, to the extent of Rs.3,04,14,999/- under the facts and in the circumstances of the appellant's case.

2.1 The learned CIT[A]/NFAC ought to have appreciated that the appellant has not committed any default for levy of penalty u/s.271C of the Act, under the facts and in the circumstances of the appellant's case.

3. Without prejudice to the above, the learned CIT[A]/NFAC ought to have appreciated that the appellant was prevented by reasonable cause for not deducting the TDS and consequently, no penalty u/s.271C of the Act was leviable.

4. Without prejudice to the above, the penalty levied is excessive and deserves to be reduced substantially.

5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs

6. The parties confirmed that, except for the amounts involved, the facts, arguments, and orders in both appeals are identical.

7. We first consider the facts for Assessment Year 2018–19. The assessee is engaged in the real estate business and was required to deduct tax at source under Chapter XVII-B of the Income-tax Act, 1961. During a survey on 31 July 2018, verification of its books revealed defaults in tax deducted at

source for Financial Year 2018–19. Consequently, by order dated 16 January 2020 under sections 201(1) and 201(1A), the Assistant Commissioner of Income-tax, TDS Circle-2(1), Bangalore, treated the assessee as an assessee in default in respect of tax deducted at source of ₹5,49,86,065, together with applicable interest.

8. During the year, the assessee had obtained inter-corporate deposits from sister concerns or group companies. The SSE has provided for the interest payment to the sister concern and has also deducted tax at source. However, the SAC has nearly created a provision for the interest payable to the sister concern, which was not paid, and the amount of tax deducted at source, which was also recorded in the books of accounts, was not deposited to the credit of the Government of India.

9. Thus, the assessee deducted tax under section 194A on the interest credited to those deposits. My sister's concerns produced Forms 26A, supported by certificates from chartered accountants, showing that the recipient companies offered the interest income to tax and paid the tax due on this income.

10. The assessee furnished party-wise details of the interest credited and tax deducted at source. In aggregate, the group companies received interest of ₹32,34,34,603, and the assessee deducted tax of ₹3,23,44,461. However, the assessee did not remit the deducted tax to the Central Government. Instead, the assessee produced Forms 26A from the recipient companies, confirming that they had included the corresponding interest income in their returns and paid tax thereon. Based on the Forms 26A accepted by the Assessing Officer, the assessee’s outstanding default was reduced to ₹1,83,63,199. Nevertheless, the tax of ₹3,23,44,461 deducted from interest

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credited to the recipient companies had not been deposited with the Central Government.

11. The Joint Commissioner of Income-tax issued a notice under section 271C, calling upon the assessee to explain the default in respect of tax deducted under section 194A. In its reply dated 10 December 2024, the assessee stated that it had credited interest at 13% per annum on the inter-corporate deposits but, due to severe financial constraints, could neither pay the interest to the group companies nor deposit the tax deducted at source with the Central Government. The recipient companies, however, furnished Forms 26A confirming that they had offered the credited interest to tax and paid the tax due. The assessee contended that section 271C did not apply because tax had been deducted, though not deposited, and that the Forms 26A had, in any event, extinguished its liability as an assessee in default. It also pleaded reasonable cause, citing continuing losses, lack of liquidity, the classification of its loans as non-performing assets, possession of its immovable properties by lenders, insolvency and recovery proceedings, and proceedings initiated by creditors under section 138 of the Negotiable Instruments Act. It further stated that, during Financial Year 2024–25, it reversed the entries relating to tax deducted at source payable upon receipt of the Forms 26A. On these grounds, the assessee requested that the penalty proceedings be dropped.

12. By order dated 31 December 2024, the Joint Commissioner of Income-tax, TDS Range-2, Bengaluru, imposed a penalty of ₹3,23,44,461 under section 271C. He held that the assessee failed to comply with its obligation under section 194A and failed to establish reasonable cause under section 273B. The claim of financial hardship was rejected because the assessee's financial statements showed positive net cash flows from operating and

investing activities and substantial cash and cash equivalents as at 31 March 2019. By order dated 4 February 2026, the CIT (A) dismissed the assessee's appeal, holding that the plea of financial hardship did not constitute reasonable cause, given the assessee's positive cash flow, tax advances, and substantial borrowings during the year.

13. Aggrieved by the appellate order, the assessee is in appeal before us. The learned authorised representative, Shri V. Srinivasan, Advocate, filed a paper book of 166 pages, which, inter alia, contains the original order under sections 201(1) and 201(1A), subsequently rectified on 30 September 2022; Forms 26A; the ledger accounts of the parties to whom interest was credited; and the assessee's explanation dated 10 December 2024, placed at pages 65–72. He relied on the decisions in Hindustan Coca-Cola Beverages Private Limited, 293 ITR 226 (SC); CIT v. Kannan Devan Hill Produce Co. Ltd., 183 ITR 471 (Ker.); CIT v. Jaipur Electro Private Limited, 183 ITR 476 (Raj.); and CIT v. K. Ramachandra, 183 ITR 478 (Bom.). He also relied on the written submissions filed before the CIT(A) on 3 December 2025, placed at page 155 of the paper book. A further paper book was filed, containing ledger accounts showing the reversal of entries relating to tax deducted at source payable for Assessment Years 2018–19 and 2019–20. According to the learned authorised representative, the assessee had reversed the entire amount of tax deducted at source in its books.

14. He reiterated the following submissions:

    a. There was no default attracting section 271C of the Income-tax Act because the assessee had deducted tax at source; therefore, there was no failure to deduct tax.

b. The assessee had demonstrated reasonable cause arising from financial hardship. Its immovable properties had been taken into possession, and insolvency proceedings had been initiated against it under the Insolvency and Bankruptcy Code.

c. The recipient group companies had only been credited with interest and had not actually received any payment. They furnished Forms 26A confirming that the income had been offered to tax and the tax due had been paid. Accordingly, the assessee could not be treated as an assessee in default, and no penalty could be levied under section 271C of the Act.

d. The lower authorities failed to consider that the assessee had already deducted tax at source. Consequently, there was no failure to deduct tax that could attract a penalty under section 271C of the Act.

15. Shri Pradeep S, the Additional Commissioner of Income Tax, and the learned senior Departmental Representative strongly supported the orders of the lower authorities. He submitted that the assessee had failed to establish reasonable cause for not depositing the tax deducted at source with the Government within the prescribed time and was therefore liable to penalty under section 271C of the Act, a penalty the Joint Commissioner of Income-tax had rightly imposed. He further contended that the subsequent procurement of Forms 26A from the sister concerns did not absolve the assessee of its obligation to deposit the tax deducted at source. Regarding the order of the learned CIT(A), he submitted that the assessee's positive cash flow disproved its claim of financial hardship and showed that no reasonable cause existed. He therefore urged that the orders of the lower authorities be upheld.

16. We have carefully considered the rival contentions and examined the orders of the authorities below.

17. The Income-tax Act 1961 (IT Act) outlines several responsibilities for taxpayers, including the requirement to withhold tax from certain payments. To promote compliance, the Act also specifies penalties and interest for non-compliance, such as failing to withhold or pay tax on time. Section 201 of the IT Act covers interest provisions, while penalties are addressed in various sections, and one amongst them is section 271C.

18. As per section 201 of the IT Act, in case a taxpayer, who is required to withhold any sum as per the provisions of the IT Act, fails to withhold or pay the tax, then the taxpayer would be deemed to have defaulted in respect of such tax.

19. Further, section 271C of the IT Act provides that if any person fails to withhold the whole or part of the tax as required in terms of the IT Act, then such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay. This section provides as it then stood as under :-

Section 271C in The Income Tax Act, 1961

271C. [Penalty for failure to deduct tax at source. *[Inserted by Act 4 of 1988, Section 108 (w.e.f. 1.4.1989).]*

(1)If any person fails to-

(a)deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or

(b)pay the whole or any part of the tax as required by or under,-(i)sub-section (2) of section 115-O; or(ii)The proviso to section 194-B, then, such person shall be liable to pay, by way of penalty, a sum equal to

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the amount of tax which such person failed to deduct or pay as aforesaid.]

(2)[Any penalty imposable under sub-section (1) shall be imposed by the] *[Inserted by Act 12 of 1990, Section 44 (w.r.e.f. 1.4.1990).]*[Joint Commissioner] *[Substituted by Act 21 of 1998, Section 3, for " Deputy Commissioner" (w.e.f. 1.10.1998).]*.

[extracted from Indiakanoon.org]

20. As per section 271C(1)(a) of the IT Act, if any person fails to deduct the whole or part of the tax as required by or under the provisions of Chapter XVIIB of the IT Act, then such a person shall be liable to pay by way of penalty a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid. So far as the failure to pay the whole or any of the tax is concerned, the same would be with respect to section 271C(1)(b) of the IT Act which is not the case here. The words used in section 271C(1)(a) of the IT Act are very clear and the relevant words used are 'fails to deduct'. It does not address belated remittance of TDS.

21. In this case, the issue is that the assessee deducted tax at source on interest payments to its sister concerns. Neither the interest was paid to the parties nor was the tax deposited with the Government Treasury. Subsequently, those recipients included this interest income in their taxable income and filed for no 26A, along with a CA's certificate, as provided under the law. In 2024-25, the assessee also reversed the TDS provision, as the ACIT passed a rectification order under TDS u/s 201 and 201(1A) of the Act, holding that the assessee was not an assessee in default. A question arose as to whether section 271C of the IT Act is attracted where the tax is withheld but there is a delay in remitting it to the Government Treasury or it is not remitted at all.

22. In this context, the Honourable Supreme Court examined whether a delay in remitting tax withheld at source (TDS) could invoke the provisions of Section 271C(1)(a) of the IT Act in US Technologies International (P.) Ltd. vs. Commissioner of Income-tax [2023] 149 taxmann.com 144 (SC)/[2023] 293 Taxman 27 (SC)/[2023] 453 ITR 644 (SC)[10-04-2023]. The case involved an Indian software development company that had withheld taxes on salaries and contract payments during a fiscal year. The TDS was remitted in two instalments, with delays varying from 5 days to 10 months. During a survey at the company's premises, the tax officer observed that the company did not deposit TDS within the deadlines prescribed under the Income-tax Rules, 1962 (IT Rules). As a result, the tax officer levied interest under Section 201 of the IT Act for the delay period. Additionally, the Additional Commissioner of Income Tax (ACIT) imposed a penalty under Section 271C, equal to the TDS amount for that year. While the Income Tax Appellate Tribunal (ITAT) granted relief to the taxpayer, the Kerala High Court upheld the penalty order in US Technologies International (P.) Ltd. vs. Commissioner of Income-tax [2010] 195 Taxman 323 (Kerala)[16-06-2009].

23. The taxpayer challenged this decision in the Supreme Court. The Honourable Supreme Court held as under: -

> ***7.5*** *At the outset, it is required to be noted that all these cases are with respect to the belated remittance of the TDS though deducted by the assessee and therefore, section 271C(1)(a) shall be applicable. At the cost of repetition, it is observed that it is a case of belated remittance of the TDS though deducted by the assessee and not a case of non-deduction of TDS at all.*
> ***7.6*** *As per section 271C(1)(a), if any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVIIB then such a*

person shall be liable to pay by way of penalty a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid. So far as failure to pay the whole or any part of the tax is concerned, the same would be with respect to section 271C(1)(b) which is not the case here. Therefore, section 271C(1)(a) shall be applicable in case of a failure on the part of the concerned person/assessee to "deduct" the whole of any part of the tax as required by or under the provisions of Chapter XVIIB. The words used in section 271C(1)(a) are very clear and the relevant words used are "fails to deduct." It does not speak about belated remittance of the TDS. As per settled position of law, the penal provisions are required to be construed strictly and literally. As per the cardinal principle of interpretation of statute and more particularly, the penal provision, the penal provisions are required to be read as they are. Nothing is to be added or nothing is to be taken out of the penal provision. Therefore, on plain reading of section 271C of the Act, 1961, there shall not be penalty leviable on belated remittance of the TDS after the same is deducted by the assessee. Section 271C of the Income-tax Act is quite categoric. Its scope and extent of application is discernible from the provision itself, in unambiguous terms. When the non-deduction of the whole or any part of the tax, as required by or under the various instances/provisions of Chapter XVIIB would invite penalty under section 271C(1)(a); only a limited text, involving sub-section (2) of Section 115-O or covered by the second proviso to section 194B alone would constitute an instance where penalty can be imposed in terms of section 271C(1)(b) of the Act, namely, on non-payment. It is not for the Court to read something more into it, contrary to the intent and legislative wisdom.

***7.7** At this stage, it is required to be noted that wherever the Parliament wanted to have the consequences of non-payment and/or belated remittance/payment of the TDS, the Parliament/Legislature has provided the same like in section 201(1A) and section 276B of the Act.*

***7.8** Section 201(1A) provides that in case a tax has been deducted at source but the same is subsequently remitted may be belatedly or after some days, such a person is*

liable to pay the interest as provided under section 201(1A) of the Act. The levy of interest under section 201(1A) thus can be said to be compensatory in nature on belated remittance of the TDS after deducting the same. Therefore, consequences of non-payment/belated remittance/payment of the TDS are specifically provided under section 201(1A).

***7.9** Similarly, section 276B talks about the prosecution on failure to pay the TDS after deducting the same. At this stage, it is required to be noted that section 271C has been amended subsequently in the year 1997 providing section 271C(1)(a) and 271C(1)(b). As observed hereinabove, fails to pay the whole or any part of the tax would be falling under section 271C(1)(b) and the word used between section 271C(1)(a) and 271C(1)(b) is "or". At this stage, it is required to be noted that section 276B provides for prosecution in case of failure to "pay" tax to the credit of Central Government. The word "pay" is missing in section 271C(1)(a).*

***8.** Now so far as the reliance placed upon the CBDT's Circular No. 551 dated 23-1-1998 by learned ASG is concerned, at the outset, it is required to be noted that the said circular as such favours the assessee. Circular No. 551 deals with the circumstances under which section 271C was introduced in the Statute, for levy of penalty. Paragraph 16.5 of the above Circular reads as follows:*

"16.5 Insertion of a new section 271C to provide for levy of penalty for failure to deduct tax at source-under the old provisions of Chapter XXI of the Income-tax Act no penalty was provided for failure to deduct tax at source. This default, however, attracted prosecution under the provisions of section 276B, which prescribed punishment for failure to deduct tax at source or after deducting failure to pay the same to the Government. It was decided that the first part of the default, i.e., failure to deduct tax at source should be made liable to levy of penalty, while the second part of the default, i.e., failure to pay the tax deducted at source to the Government which is a more serious offence, should continue to attract prosecution. The Amending Act, 1987 has accordingly inserted a new section 271C to provide for

imposition of penalty on any person who fails to deduct tax at source as required under the provisions of Chapter XVIIB of the Act. The penalty is of a sum equal to the amount of tax which should have been deducted at source.

On fair reading of said CBDT's circular, it talks about the levy of penalty on failure to deduct tax at source. It also takes note of the fact that if there is any delay in remitting the tax, it will attract payment of interest under section 201(1A) of the Act and because of the gravity of the mischief involved, it may involve prosecution proceedings as well, under section 276B of the Act. If there is any omission to deduct the tax at source, it may lead to loss of Revenue and hence remedial measures have been provided by incorporating the provision to ensure that tax liability to the said extent would stand shifted to the shoulders of the party who failed to effect deduction, in the form of penalty. On deduction of tax, if there is delay in remitting the amount to Revenue, it has to be satisfied with interest as payable under section 201(1A) of the Act, besides the liability to face the prosecution proceedings, if launched in appropriate cases, in terms of section 276B of the Act.

Even the CBDT has taken note of the fact that no penalty is envisaged under section 271C of the Income-tax Act for non-deduction TDS and no penalty is envisaged under section 271C for belated remittance/payment/deposit of the TDS.

***8.1** Even otherwise, the words "fails to deduct" occurring in section 271C(1)(a) cannot be read into "failure to deposit/pay the tax deducted."*

***8.2** Therefore, on true interpretation of section 271C, there shall not be any penalty leviable under section 271C on mere delay in remittance of the TDS after deducting the same by the concerned assessee. As observed hereinabove, the consequences on non-payment/belated remittance of the TDS would be under section 201(1A) and section 276B of the Act, 1961.*

***9.** In view of the above in all these cases as the respective assessees remitted the TDS though belatedly and it is not case of non-deduction of the TDS at all they are no liable to pay the penalty under section 271C of the Income-tax Act. Therefore, any question on*

applicability of section 273B of the Act is not required to be considered any further.

10. *In view of the above and for the reasons stated above, all these appeals succeed. Impugned judgment(s) and order(s) passed by the High Court are hereby quashed and set aside and the question of law on interpretation of section 271C of the Income-tax Act is answered in favour of the assessee(s) and against the Revenue and it is specifically observed and held that on mere belated remitting the TDS after deducting the same by the concerned person/assessee, no penalty shall be leviable under section 271C of the Income-tax Act. Present appeals are accordingly allowed. No costs."*

[extracted from taxmann.com]

24. Although the issue before the Honourable Supreme Court concerned belated remittance of TDS, whereas the assessee in the present case was subsequently held not to be an assessee in default, the question of penalty under section 271C is, in our view, the same.

25. As a sound proposition of law, penal provisions must be construed strictly and literally. Nothing is to be added to or taken from a penal provision. Therefore, on a plain reading of section 271C of the IT Act, no penalty is leviable for belated remittance of TDS after the taxpayer has withheld it. Section 271C of the IT Act is categorical. Its scope and application are discernible from the provision itself, in unambiguous terms. The Court cannot read more into it than the text permits, contrary to the intent and legislative wisdom. It must be noted that wherever Parliament intended consequences for non-payment and/or belated remittance/payment of TDS, it provided for the same in section 201(1A) and section 276B of the IT Act.

26. Further, as per Circular No. 551 dated 23 January 1998, the circumstances under which section 271C of the IT Act was introduced into the Statute are addressed. On a fair reading of the Circular, it discusses the levy of penalty

for failure to deduct tax at source. It also notes that any delay in remitting the tax will attract interest under section 201(1A) of the IT Act, and, given the gravity of the mischief involved, prosecution proceedings may also be initiated under section 276B of the IT Act.

27. Thus, in this case, the failure to deduct tax at source penalty u/s 271C for both the years is not sustainable. The orders of the lower authorities are reversed, and the Ld. AO is directed to delete the penalty levied u/s 271C of the Act for both the AYs.

28. In the result, the appeal filed by the Assessee for both the AYs is allowed.

Order pronounced in the open court on 15th October, 2026.

Sd/-	**Sd/-**
SOUNDRARAJAN K.	**PRASHANT MAHARISHI**
JUDICIAL MEMBER	**VICE PRESIDENT**

Bangalore
Dated: 15.10.2026

TNTS

Copy to:

1	**SHORE DWELLINGS PRIVATE LIMITED** 41, MANTRI HOUSE, VITTAL MALLYA ROAD, BENGALURU-560001, KARNATAKA
2	**JCIT,** TDS RANGE-2, HMT BHAWAN, #59, BELLARY ROAD, GANGANAGAR BENGALURU-560032, KARNATAKA

3	THE PCIT / CIT,
4	THE CIT(APPEALS)
5	THE D.R., ITAT, BANGALORE BENCH

BY ORDER

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

आयकर अपीलीय अधिकरण
INCOME TAX APPELLATE TRIBUNAL
निष्पक्ष सुलभ
सत्वर न्याय ॥
IMPARTIAL, EASY AND
SPEEDY JUSTICE