IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW, 'A' BENCH, LUCKNOW

BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA No.712/LKW/2026
A.Y. 2016-17

State Bank of India, LHO Lucknow, Head Office, Moti Mahal Marg, Lucknow 226001, U.P.	vs.	Joint Commissioner of Income Tax, TDS, Addl. CIT TDS Range, Lucknow
PAN: AAACS8577K **TAN: LKNS00939B**		
(Appellant)		(Respondent)

Assessee by:	Sh. Dinesh Nair, C.A.
Revenue by:	Sh. Sudhakar Shukla, DR
Date of hearing:	11.08.2026
Date of pronouncement:	16.10.2026

O R D E R

PER NIKHIL CHOUDHARY, A.M.

This is an appeal filed by the assessee against the order of the ld. CIT(A) dated 13.12.2024, wherein the ld. CIT(A) has dismissed the appeal of the assessee against the penalty order passed by the ld. Assessing Officer under section 271C of the Income Tax Act, 1961 for the assessment year 2016-17 dated 28.02.2024. The grounds of appeal are as under:-

> *"1. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in confirming the penalty levied under section 271C of the Income-tax Act, 1961.*
> *2. The learned CIT(A) erred to appreciate that if a case has strong merits, dismissing it solely due to a delay can cause a "gross miscarriage of justice".*
> *3. The learned CIT(A) erred in not adopting a liberal approach for condoning delay to ensure justice, rather than shutting out cases on technical grounds as held by the Hon'ble Supreme Court in Collector, Land Acquisition, Anantnag & Anr. v. Mst. Katiji & Ors., (1987) 2 SCC 107/167 ITR 471 (SC).*

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4. The learned CIT(A) erred to appreciate that delay normally works against the litigant, so deliberate delay should not be readily presumed, on the other hand, condoning delay merely allows the matter to be heard on merits.
5. The learned CIT(A) erred to appreciate that the Appellant had acted under and in compliance with the interim directions of the Hon'ble Madras High Court dated 16 February 2015 directing that no tax be deducted at source on LTC paid / reimbursed to employees, and therefore the alleged failure, if any, was fully supported by reasonable cause within the meaning of section 273B.
6. The learned CIT(A) ought to have held that where the Appellant acted in obedience to a subsisting order of a Constitutional Court, no penalty under section 271C could be levied, since such conduct can never amount to wilful neglect, contumacious default, or deliberate defiance of law.
7. The learned CIT(A) erred to appreciate that deduction of tax in breach of the interim directions of the Hon'ble Madras High Court would itself have amounted to disobedience of the Court's order and could have exposed the Appellant to contempt proceedings, hence, the Appellant had more than sufficient and reasonable cause for not deducting.
8. The learned CIT(A) erred to appreciate that the Hon'ble Madras High Court had also clarified that, in the event the writ petition failed, the tax liability would fall upon the employees, thereby reinforcing that the Appellant's conduct was under judicial sanction and devoid of any revenue-evasive intent.
9. The learned CITIA) erred in not appreciating that the issue was, in any event, debatable and legally contentious, and therefore penalty under section 271C, being penal in nature, was wholly unsustainable.
10. The learned CITIA) erred in not following/appreciating the ratio of the judgment of the Hon'ble Kerala High Court in State Bank of India v. CIT (ITA No. 45 of 2025), wherein, on similar facts, the Appellant's action in not deducting tax at source pursuant to the Madras High Court's interim directions was held to be justified.
11. The learned CITIA) erred to appreciate that section 271C is subject to section 273B and that once reasonable cause is established, no penalty can survive.
12. The Appellant craves leave to add, amend, alter, delete or modify any of the above grounds at the time of hearing."

2. At the very outset, it is seen that the appeal of the assessee is delayed by 475 days. The assessee has filed an affidavit, wherein it has been submitted that the delay of 475 days was neither deliberate nor attributable to any mala fide intention. It has been submitted that the impugned order was received at the Branch level. However, due to an inadvertent administrative lapse, the said order was misplaced by the then Branch head and could not be forwarded to the officials responsible for handling tax matters. Consequently, the existence of the order was not known to the

competent authority and no decision could be taken regarding filing of the appeal within the prescribed period in the absence of such knowledge. The assessee only became aware of the impugned order upon being served with communication seeking recovery outstanding demand. Upon receiving this notice, the assessee initiated steps to obtain and examine relevant documents and take necessary action for immediate filing of the appeal. It was further submitted that the assessee was a public sector undertaking and had no conceivable benefit in the delayed filing of the appeal. On the contrary, the delay had exposed the appellant to continuing recovery proceedings and accumulation of liability. It was prayed that a liberal approach should be adopted in all cases where sufficient cause had been shown and in the present case, procedural lapses and communication gaps, which are common with large organizations operating through numerous administrative levels and branches, was there. Further reliance was placed on the decision of the ITAT Agra Bench in the case of State Bank of India in ITA Nos. 382 & 383/AGR/2024, wherein the Bench had held that considering the recurring nature of the issue and the fact that the assessee was a public sector undertaking which could not gain by filing the appeal belatedly, the delay was to be condoned. It was submitted that the assessee had strong case on merits and denial of opportunity merely on account of procedural delay would result in grave prejudice to the assessee and therefore, it was prayed that the delay may kindly be condoned and the appeal admitted for adjudication. After considering the contents of the said application, the delay in the filing of the appeal is condoned and the appeal is admitted for adjudication.

3. The facts of the case are that the assessee, a Deductor, is a Branch office of the State Bank of India situated at Moti Mahal Marg, Lucknow, Uttar

Pradesh. An order under section 201(1) and 201(1A) of the Act was passed by the ACIT, TDS, Lucknow on 31.03.2023 where observations were illustrated and defaults were established on the basis of material available on record. It had been noted that the assessee had failed to deduct TDS on Leave Fair Concession payments to employees involved in travel to foreign destinations. Accordingly, the assessee had been held to be an assessee in default for non-deduction / deposit of TDS within the stipulated time frame as per the provisions of section 201(1) and 201(1A) of the Act. The ACIT, TDS referred the matter for proceedings under section 271C of the Act to the JCIT, TDS Range, Lucknow, who subsequently initiated the penalty proceedings by issuance of notice dated 14.03.2023. The notice was duly served upon the assessee, but no compliance was made Subsequently, another notice was sent but again the same was not responded to. The ld. Assessing Officer records that he also telephonically contacted the Assistant General Manager (Law) Local Head Office, State Bank of India and the AR regarding the compliance but the same was not made. Therefore, the ld. JCIT proceeded to levy the penalty under section 271C amounting to Rs. 12,52,757/- since the assessee had failed to deduct tax amounting to Rs. 12,52,757/- as it was required to by law and had also failed to deposit the same.

4. The assessee was aggrieved at the said orders passed by the ld. JCIT and filed an appeal before the ld. CIT(A). Hereto, the appeal of the assessee was delayed by 236 days. Before the ld. CIT(A), the assessee submitted that the delay was due to getting the necessary approvals from controllers for filing of the appeal. Furthermore, there was an issue of non-availability of password to the tax portal due to the transfer / retirement of officials whose credentials had earlier been used. Therefore, they had to reset the login

details through the e-filing web manager. The ld. CIT(A) considered the submissions of the assessee but held, in the light of several judgments which were quoted in his order, that the assessee had failed to advance sufficient reasons for the extraordinary delay in the filing of the appeal. Nevertheless, he proceeded to decide the issue on its merits. The ld. CIT(A) held that the appellant bank was required to deduct taxes under section 192 of the Act on the LTC reimbursement made to its employees and this issue has now been settled by the assessee by the Hon'ble Supreme Court in the assessee's own case as reported in (2022) 144 taxman.com 131 (SC). The ld. CIT(A) held that unless the assessee could show that there was a reasonable cause for the failure to deduct and deposit the tax at source on such payments, penalty under section 271C was leviable. He further held that the burden to show that there was reasonable cause for non-deduction of taxes rested on the assessee. However, in this case, the assessee had not advanced any reasonable cause for default in deduction of tax at source. Therefore, since the assessee could not show reasonable cause under section 273B of the Act, the levy of penalty under section 271C of the Act by the ld. Assessing Officer was to be upheld.

5. Aggrieved with the said order of the ld. CIT(A), the assessee has filed an appeal before us. Sh. Dinesh Nair, C.A. (hereinafter referred to as the ld. AR) appearing on behalf of the assessee submitted that the ld. CIT(A) was in error in refusing to condone the delay in the filing of the appeal because he should have appreciated that the assessee lacked the requisite authority to file the appeal on its own. It was required to obtain the approval of the controller and in consultation with the AGM (Law) at the Local Head Office, before the appeal could be filed. This constituted reasonable ground to condone the delay and the ld. CIT(A) ought to have considered it. However,

the ld. AR submitted that the ld. CIT(A), despite having recorded that it was not a fit case for the condonation of delay, had thereafter proceeded to decide the issue on merits and held that the assessee did not have any reasonable grounds for failure to deduct tax at source. He had omitted to consider that the assessee had acted under an incompliance with the interim deductions of the Hon'ble Madras High Court order dated 16.02.2015 which had directed that no tax should be deducted at source on LTC paid/reimbursed to employees and therefore, the alleged failure, if any, was fully supported by reasonable cause within the meaning of section 273B. It was submitted that the ld. CIT(A) ought to have held that where the assessee had acted in obedience to a subsisting order of a Constitutional Court, no penalty under section 271C could be levied, since such conduct could never amount to willful neglect, contumacious default or deliberate defiance of law. The ld. AR submitted that deduction of tax in breach of the interim directions of the Hon'ble Madras High Court would have amounted to disobedience of the Court's order and exposed the assessee to contempt proceedings. Hence, the assessee had more than sufficient cause for not deducting the tax. It was further pointed out that the Hon'ble Madras High Court in its order had stated that in the event that the writ petition failed, the tax liability would fall upon the employees. This reinforced the fact that the assessee's conduct was under judicial sanction and *de void* any Revenue evasive intent. The ld. CIT(A) had failed to appreciate that the Hon'ble Kerela High Court in State Bank of India vs. CIT in ITA No. 45 of 2025 had held that the appellant's action in not deducting tax at source pursuant to the Hon'ble Madras High Court's interim directions was held to be justified. Accordingly, it was prayed that since the assessee 's failure to deduct tax at source was covered by the provisions of section 273B, no penalty under section 271C

could be levied upon the assessee. He also filed a paper book containing the judicial precedents relied upon in support of the grounds of appeal which included various decisions of the ITAT on other branches of State Bank of India.

6. On the other hand, Sh. Sudhakar Shukla, Sr. DR (hereinafter referred to as the ld. DR) placed reliance on the orders of the ld. JCIT and the ld. CIT(A). He submitted that the ld. CIT(A) had discussed why the appeal was not maintainable both on account of delay and on account of the failure to show reasonable cause for the default and therefore, he had dismissed the said appeal. He prayed that in view of the detailed order passed by the ld. CIT(A), the penalty should be confirmed.

7. We have duly considered the facts and circumstances of the case and the arguments advanced by both parties. We note that the Indian Bank Association by a Circular dated 7.11.2014, advised that officers / employees of Member banks would not be entitled to visit overseas countries as part of the LTC/HTC. In compliance of the said directives, the State Bank of India by a Circular dated 15.04.2014 communicated that an officer would not be entitled to visit overseas countries as part of LTC/HTC. This decision of the Bank was challenged in the Hon'ble Madras High Court by the All India State Bank Officers' Federation and All India Bank Officers' Confederation by a writ petition bearing no.11991/2014. The Hon'ble High Court, vide its order dated 25.04.2014 issued an interim stay on the banks instructions, keeping in view the undertaking given by the petitioners and ruled that in view of the undertaking that if the writ petition was dismissed, the amount paid towards LTC would be refunded by individual officers concerned, an interim stay was granted till 12.06.2014. Subsequently, vide its order dated 16.02.2015, the Hon'ble Madras High Court directed that the interim order would continue

till the date of final disposal of the writ petition. It is also seen that the final order of the Hon'ble Madras High Court in W.P. No. 11991 of 2014 was passed on 24.06.2022 and therefore, during the entire period of consideration, the said interim order remained in force, in obedience to which the assessee did not deduct tax at source and deposit the same into Central Government account. We also note that the Hon'ble Kerela High Court in ITA No. 45 of 2025 examined the case of SBI, Poovar Branch, Sugathan Complex, Thiruvananthapuram on similar facts and observed that *prima facie*, the Hon'ble Madras High Court was of the view that there was no taxable income accruing to the employee so as to deduct tax at source. Further, the payment of the bank towards LTC on the basis of interim direction would not amount to, "income of the employee". Therefore, the bank could not make any deduction at source and if ultimately the petitions stood rejected, it was for the employee to pay tax on the amount paid by the bank. It had further observed that the above state of affairs continued throughout the Financial Year 2015-16. The Hon'ble Kerela High Court further observed that the Hon'ble Madras High Court in Leema Resorts (P.) Ltd. and Another vs. C.G. Suryakant and Others, (1995) 215 ITR 618 (Mad) had held that assessee was not to be proceeded against for payments already made pursuant to the orders issued, as per which there was no scope for tax deduction at source and the Hon'ble Kerela High Court was of the view that the same position existed in the case of that assessee also, as having complied with the orders of the Hon'ble Madras High Court, it could not be treated as an, "assessee in default" under the provisions of section 201(1) of the Income Tax Act. It also discussed the judgment of the Hon'ble Supreme Court dated 4.11.2022 in Civil Appeal No. 8181/2022, wherein the Hon'ble Supreme Court had held that against payments made by the appellant bank

to its employees towards LTC, it was bound to deduct tax at source but it observed that this finding was with respect to A.Y. 2013-14 (F.Y. 2012-13) while in the case at hand before it, during the F.Y. 2015-16 relevant to the A.Y. 2016-17, the interim directions issued by the Hon'ble Madras High Court governed the field and the appellant assessee was justified in not having deducted the tax.

8. In view of the fact that the assessee did not deduct tax at source on account of the interim stay granted by the Hon'ble Madras High Court against the Circular of the State Bank of India, it cannot therefore be said that there was no reasonable cause for the failure to deduct tax at source upon LTC payments made to employees during the financial year 2015-16. i.e. the period during which the interim order by the Hon'ble Madras High Court was in operation. Therefore, in the circumstances, it is held that since there was reasonable cause within the meaning of section 273B of the Income Tax Act, 1961, the ld. CIT(A) was not justified in confirming the penalty levied by the ld. JCIT upon the assessee for the failure to deduct tax at source upon LTC payments during the F.Y. 2015-16. Accordingly, the penalty levied is quashed.

9. In the result, the appeal of the assessee is allowed.

Order pronounced on 16.10.2026 in the open Court.

Sd/-	***Sd/-***
[KUL BHARAT]	**[NIKHIL CHOUDHARY]**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

DATED: 16/10/2026
Sh

Copy forwarded to:
1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

By order
Sr. P.S.