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

BEFORE SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA No.11/LKW/2026
A.Y. 2017-18

State Bank of India, Overseas Branch, CODE No-5346, 15/54B, Civil Lines, Kanpur Nagar-208001	vs.	Deputy Commissioner of Income Tax (TDS), Kanpur Nagar
PAN: AAACS8577K		
(Appellant)		(Respondent)

Assessee by:	None
Revenue by:	Smt. Pratibha Singh, Addl CIT DR
Date of hearing:	25.08.2026
Date of pronouncement:	21.10.2026

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), NFAC dated 30.11.2025, wherein the ld. JCIT(A) has dismissed the appeal of the assessee against the order of the ld. Assessing Officer under section 201(1) and 201(1A) of the Income Tax Act, 1961 for the assessment year 2016-17 dated 29.03.2023. The grounds of appeal are as under:-

> *"1. That the order passed by the Learned Additional Commissioner of Income Tax (Appeals) CIT(A) -3 HYDERABAD under section 250 of Income Tax Act 1961 dated 30-11-2025 is bad in law, void ab initio and liable to be quashed, as the same has been passed without assigning any reasons and without proper application of mind.*
>
> *2. That the Learned Additional CIT(A)/JCIT(A) -3 has erred in law and on facts in dismissing the appeal mechanically, without adjudicating the grounds of appeal raised by the appellant in violation of Section 250(6) of the Income Tax Act, 1961.*
>
> *3. That the impugned order is a non-speaking order, contrary to settled principles of natural justice, as the learned Additional CIT(A) /CIT(A) has failed*

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to: (a) frame points for determination, (b) discuss facts and evidence on record, and (c) give reasons for the decision.

4. That the Learned Additional CTT (A)/JCIT(A) has erred in not considering the written submission and evidence filed by the appellant, thereby denying reasonable opportunity of being heard resulting in contravening the principles of natural justice.

5. That the Learned Additional CIT(A)/JCIT(A) has failed to discharge the quasi-judicial duty cast upon him, as mandated under the Income Tax Act, 1961 and judicial precedents, rendering the appellate order unsustainable in law.

6. That the order passed by the learned Additional CIT (A)/JCIT (A) suffers from arbitrariness and perversity hence deserves to be set aside.

7. That the grounds of appeal as pleaded before the learned CIT(A) are relied upon the appeal before the Hon'ble Member, ITAT.

8. That the above grounds are independent and without prejudice to each other. That the appellant craves leave to add, alter, amend or withdraw any of the above grounds of appeal at or before the time of hearing.

10- In view of the above grounds, the appellant respectfully prays that

A) The impugned order passed by the Learned Additional Commissioner of Income Tax (Appeals)/3CIT (A) be set aside.

B) The matter be restored back to the file of the Learned Additional Commissioner of Income Tax (Appeals)/JCIT (A) for fresh adjudication after providing due opportunity of hearing, OR

C) The Hon'ble Tribunal may decide the appeal on merits."

2. The facts of the case are that the assessee, State Bank of India, Overseas Branch, Kanpur had not deducted tax at source on the amount of reimbursement of Leave Travel Concession / Leave Fare Concession given to employees even in cases where a foreign destination was included in the itinerary of the journey. In view of this, the ld. Assessing Officer issued a show cause notice to the assessee asking it to explain as to why it may not be treated as an assessee in default for not deducting the TDS on LTC/LFC payment / reimbursement amounting to Rs. 3,47,933/- paid to its employees, since as per section 10(5) of the Income Tax Act, 1961, it was clearly stipulated that the exemption was available only for travel to any place in India and restricted to the amount of expenses actually incurred for the purposes of such travel. The assessee did not make any compliance to

the said show cause notice and from the same, the ld. Assessing Officer concluded that it had nothing to say in its defense. Accordingly, the ld. Assessing Officer noted that two employees Sh. Mukul Agarwal, who had travelled to Trichy, Malasiya, Singapore and Colombo and Sh. R.K. Singla, who had travelled to Ludhiana, Dubai and Muscat had been given reimbursement upon which the default under section 201(1) was calculated at Rs. 1,19,100/- and Rs. 40,496/-, respectively and the total default in respect of both inclusive of interest under section 201(1A) of the Act was calculated at Rs. 2,88,059/-.

3. Aggrieved with the said order, the assessee filed an appeal before the ld. CIT(A). Before the ld. CIT(A), it was submitted that the show cause notice dated 23.03.2023 to the assessee seeking reply by 27.03.2023 was actually received by the assessee only on 27.03.2023 and the assessee was prevented from presenting its case properly in view of the same. It was submitted that there were a large number of decisions of various Courts which held that if employers make a bonafide estimate of income of employees and deducts taxes at source thereon, it cannot be held to be an assessee in default under section 201(1). It was the bonafide belief of the bank that it was not liable to deduct tax at source in respect of LTC/LFC provided to employees. In other words, the bank had deducted appropriate tax at source on the basis of the prevailing law and there was no default on the part of the bank in this regard. Accordingly, it was prayed that the bank could not be held as assessee in default. It was submitted that the assessee had paid LTC/LFC to its employees for domestic travel to a designated place and it was the bonafide belief of the bank that the payment of LTC/LFC did not require any TDS as the amount of payment was exempted under section 10(5) of the Income Tax Act. It was further submitted that the Hon'ble Madras High Court vide its

order dated 25.05.2014 in M.A. No. 02 of 2014 in Writ Petition No. 11991 of 2014, had granted an interim stay upon the deduction of tax at source on any amount paid by the assessee to its employees on account of LTC reimbursement. It was submitted that the said writ petition was finally decided only on 24.06.2022. Thus, during the period in question, the bank could not have deducted tax at source. In view of the aforesaid order as there was no occasion for the bank to treat the amount of LTC as income and to deduct the tax at source.

4. The ld. CIT(A) considered the submission of the assessee, he pointed out that two principle questions arose for consideration; the first was whether Leave Travel Concession involving a foreign leg of travel falls within the ambit of section 10(5) of the Income Tax Act and consequently qualifies as an exempt income and if the same did not fall within the ambit of section 10(5) of the Act, can the assessee be held to be an, "assessee in default" under section 201(1) for the failure to deduct the tax at source on the reimbursement made to its employees having regard to the interim order of the Hon'ble High Court of Madras dated 16.02.2015 in W.P. No. 11991 of 2014. The ld. CIT(A) pointed out that the first question now stood covered by the judgment of the Hon'ble Supreme Court in the case of State Bank of India vs. ACIT, in Civil Appeal No. 8181 of 2022 dated 14.11.2022, wherein it had been categorically held that LTC was for travel within India from one place to another place in India and the moment an employee undertook travel with a foreign leg, it was not travel within India and hence was not covered under the provisions of section 10(5) of the Act. With regard to the second question, the ld. CIT(A) held that ordinarily following the order of the Hon'ble Supreme Court, that LTC involving a foreign leg did not fall within the ambit of section 10(5) of the Act and therefore, reimbursements made

were liable for deduction of tax at source, non-deduction on such payments would render the appellant liable to be treated as an, "assessee in default" under section 201(1). However, there was an interim order passed by the Hon'ble High Court of Madras on 16.02.2015, which remained operative until 24.06.2022, wherein the amount paid by two officers as LTC was not to be regarded as, "income" and therefore, tax could not be deducted at source on the same. This interim protection was granted subject to the condition that in the event that the writ petition was dismissed, the individual officers concerned would refund the amounts paid towards LTC for foreign overseas travel. The ld. CIT(A) thereafter proceeded to examine the sequence of events and discovered from the same that the bank had the authority to recover the whole amount of reimbursement given after 24.06.2022 and the bank had not done this. Had the bank recovered the amount from the employee, there was no question of TDS as there would be no LTC reimbursement. The ld. CIT(A) further noted that the order of the Single Judge of the Hon'ble Madras High Court in W.P. No. 11991 of 2014 dismissed the writ petition filed by the All India State Bank Officers' Federation and All India Bank Officers' Confederation against the issue of the two Circulars by the Indian Bank Association and the State Bank of India. However, the dismissal of the said writ was stayed by a Division Bench of the Hon'ble Madras High Court, vide its order dated 24.06.2022 in W.A. No. 1653 of 2022 and on 8.06.2023, the Hon'ble Division Bench of the Madras High Court quashed the Circulars dated 7.04.2014 issued by the IBA and the letter dated 15.04.2014, issued by the bank. Subsequently, the State Bank of India carried the matter to the Hon'ble Supreme Court in SLP No. 16734/2023 and vide its orders dated 28.08.2023, the Hon'ble Supreme Court stayed the order of the Division Bench of the Hon'ble Madras High Court in W.A. No. 1653/2022

and held that while the operation of the impugned judgment would remain stayed, the assessee bank would not make any recoveries from its employees during the pendency of the petition under consideration. The ld. CIT(A) has from this sequence of events held that during the period 24.06.2022 to 8.08.2022 and from 8.06.2023 to 28.08.2023, there was no stay upon the bank that prevented the bank from either making recoveries or deducting any tax at source and therefore, the failure of the bank to deduct the tax at source at this point of time, made the assessee an assessee in default. He accordingly came to dismiss the appeal of the assessee.

5. The assessee is aggrieved at this dismissal of its appeal and it has accordingly come in appeal before us. On the appointed date of hearing, nobody appeared on behalf of the assessee. However, a detailed written submission was filed by R.K. Srivastava, Advocate on behalf of the bank. We note that the said Advocate is duly authorized to file the same by way of *Vakalatnama* filed alongwith the appeal. Before us, it was submitted that without prejudice to its position that the Branch had correctly granted exemption under section 10(5) of the I.T. Act, 1961 to its employees at the time of deduction of tax at source and that the Branch was under a bonafide belief that even where the journey undertaken by an employee involves a foreign leg, the employees were entitled to exemption under section 10(5) of the I.T. Act, 1961, where the employees designated place is in India and he actually visits the place as designated, the bank could not have even otherwise deducted tax at source in view of the order passed by the Hon'ble Madras High Court in W.P. No. 11991 of 2014 because it had been directed not to treat the LTC amount as, "income" or to deduct tax at source during the relevant financial year. It was submitted that the non-deduction of TDS on LTC amount paid by the bank to its employees was because of the interim

orders in writ petitions spanning over a period from 25.04.2014 to 24.06.2022 and subsequent interim order of stay from 8.08.2022 to 8.06.2023. It was submitted that the interim stay order passed by the Hon'ble Supreme Court on 28.03.2023 in SLP (Civil) No. 16734/2023 is still in operation as on date. Therefore, the act of the assessee bank in not deducting TDS on LTC amount could not be called into question, as the same was carried out in consonance with the order of the Hon'ble High Court of Madras and the Hon'ble Supreme Court of India from time to time. For this proposition, the assessee placed reliance on the decisions of the Income Tax Appellate Tribunal in the case of SBI, Main Branch, Kanpur (TAN-KNPSO4068B) vs. DCIT (TDS), Kanpur in ITA No. 76/LKW/2017 and SBI, Fund Settlement Link Office, Kanpur vs. DCIT in ITA No. 22/LKW/2017 and ITA Nos. 304 & 305/LKW/2017, where the ITAT Lucknow has restored the matter back to the file of the ld. CIT(A), in view of the judgment of the ITAT Mumbai in ITA No. 1717/MUM/2019. The ld. AR also placed reliance on the judgment of the ITAT Mumbai in the case of SBI, Mumbai vs. ACIT (TDS) in ITA NO. 1717/MUM/2019 and the decision of the Hon'ble Kerela High Court in the case of State Bank of India, Poovar Branch, Sugathan Complex, Poovar, Thiruvananthapuram vs. Commissioner of Income Tax in ITA No.45 of 2025 (2025 Kerela 87679). It was submitted that the Hon'ble Kerela High Court had held that the finding of the Hon'ble Apex Court in its judgment dated 4.11.2022 in Civil Appeal No. 8181of 2022 was that the assessee bank was liable to deduct tax at source in respect of payments made by the assessee bank to its employees. But this finding was with respect to the A.Y. 2013-14 and in the case at hand, which was 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. In the

result, the appeal of that assessee was allowed and it was held that it could not be held to be assessee in default. Reliance was also placed on several other judgments, not all of which are relevant to the issue at hand.

6. On the other hand, Smt. Pratibha Singh, Addl CIT DR (hereinafter referred to as the ld. DR) appearing on behalf of the Department pointed out that the matter was no longer res integra since the Hon'ble Supreme Court vide its order dated 4.11.2022 in State Bank of India vs. Assistant Commissioner of Income Tax (2022) 144 taxman.com 131 (SC) had held that since the travel of the said employees was not from one place in India to another place in India but involved a foreign leg, the benefit of exemption under section 10(5) could not be granted to the assessee and the assessee ought to have deducted tax at source under section 192 while releasing the payment of LTC. Ld. DR submitted that in view of the fact that the Hon'ble Supreme Court had decided the issue, there was no further scope for debate and therefore, the orders of the ld. Assessing Officer should be confirmed holding the assessee to be an assessee in default for the failure to deduct tax at source.

7. We have duly considered the facts of the case and the various judicial precedents cited before us. We note that the Hon'ble Supreme Court has held that the amounts paid towards Leave Travel Concession by the assessee to its employees for undertaking travel to various places in India inclusive of a foreign leg was not exempt under the provisions of section 10(5) of the Income Tax Act, 1961 and the bank was obliged to deduct tax at source under section 192 while making such payments to the employee. However, the Hon'ble Kerela High Court in the case of State Bank of India, Poovar Branch, Sugathan Complex, Thiruvananthapuram vs. CIT in ITA No. 45 of 2025 have held that the finding of the Hon'ble Supreme Court was with respect to the

assessment year 2013-14 but in the case 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 that assessee was therefore, justified in not having deducted the tax. The interim directions of the Hon'ble Madras High Court were that the payment of the bank towards LTC would not amount to income of the employee and therefore, the bank could not make any deductions at source. Furthermore, if the writ petition stood rejected, the employee was liable to pay tax on the amount paid by the bank. The case of the present assessee also relates to the period when the interim directions of the Hon'ble Madras High Courts were in force as the payments to the concerned employees were made in the F.Y. 2016-17. The ld. CIT(A) has held that there were two windows available to the bank wherein the bank could have recovered the amount from the employees as per the directions of the Hon'ble Madras High Court but the bank chose not to do so and since the bank did not make efforts towards recovery, it was obliged to deduct the tax at source during the period before the stay on recovery came into force vide orders of the Division Bench of the Hon'ble Madras High Court and subsequently the Hon'ble Supreme Court. We note that while the order of the Division Bench of the Hon'ble Madras High Court was passed on 8.06.2023, the Writ Appeal No. 1653/2022 was instituted on 26.07.2022 i.e. within a month of the passing of the order in W.P. No. 11991 of 2014. Thus we note that there was an extremely small window between the orders of the Single Judge Bench in the Hon'ble Madras High Court and the institution of the appeal against it before the Division Bench. Thus, the assessee cannot be faulted for failing to recover the amounts from the employees in the narrow window available between the order of the Single Judge of the Hon'ble Madras High Court and the challenge to the same before the Division

Bench. As regards the window between the order of the Division Bench of the Hon'ble Madras High Court and the filing of the SLP in the Hon'ble Supreme Court, we note that the Division Bench had quashed the order of the Single Judge in W.P. No. 11991 of 2014 and therefore, the recovery from employees could not have been done at that stage. We, therefore, note that the order the ld. CIT(A) is not sustainable on account of such reasons as given by him in his order. We further note that various Benches of the Tribunal have considered the matter before us. In the matter of State Bank of India, Bhavnagar Para Branch v. ITO, TDS, reported in [2026] 184 taxmann.com 706 (Ahmedabad-Trib.), the Coordinate Bench, after considering the judgment of the Hon'ble Supreme Court, the interim orders of the Hon'ble Madras High Court and the decision of the Hon'ble Kerela High Court had held that the assessee bank could not be treated as an assessee in default under section 201(1) for the relevant period. It has held that there was considerable merit in the contention of the assessee that it could not have deducted tax at source on LFC payments made to employees during the period in which the interim orders passed by the Hon'ble Madras High Court were in operation, because such deduction would have amounted to disobedience of the order of the Hon'ble High Court. The Tribunal held that 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 in such circumstances, cannot be equated with a default contemplated under section 201(1) of the Act. The ITAT Ahmedabad Bench also held that 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 and in the case of the assessee such legal

obligation stood eclipsed by the interim directions of the Hon'ble High Court. Following the said order, the Coordinate Bench of the Tribunal in the case of State Bank of India, Currency Administration Cell, Gandhi Nagar vs. ITO and State Bank of India, Bhavnagar Branch vs. ITO in ITA Nos.1011/AHD/2026 and 1944/AHD/2026, has concluded that during the relevant assessment years, the assessee bank was operating under the binding interim directions of the Hon'ble Madras High Court specifically clarifying that LFC payments would not constitute income for TDS purposes. Therefore, the assessee was legally bound to comply with such judicial directions and any deduction of tax to the contrary thereto, would have exposed the assessee to proceedings for contempt of court. In the circumstances, it has held that the failure to deduct tax at source cannot be treated as a default contemplated under section 201(1) of the Act. The facts of the assessee's case are identical to the facts as noticed in the aforesaid decisions. Since the assessee was bound by the interim orders of the Hon'ble Madras High Court in Writ Petition No. 11991 of 2014, it could not have deducted tax at source for payments to employees on account of LFC during the F.Y. 2016-17 relevant to A.Y. 2017-18. Furthermore, since it has also been restrained by the Division Bench and also subsequently by the Hon'ble Supreme Court from making recoveries from the employees, it cannot be faulted for not having recovered the amounts from the employees. As held by the Hon'ble Kerela High Court in the case of State Bank of India, Poovar Branch, Sugathan Complex, Poovar, Thiruvananthapuram vs. Commissioner of Income Tax in ITA No.45 of 2025 (2025 Kerela 87679) and followed by the Coordinate Benches of the ITAT, while the Hon'ble Supreme Court has settled the issue on merits, it cannot retrospectively fasten the liability under section 201(1) of the Act for a period during which the assessee was acting in compliance with judicial

orders. As noted by the Hon'ble Kerela High Court the decision of the Hon'ble Supreme Court was rendered for a period before the interim orders of the Hon'ble Madras High Court and once, they were issued the said interim directions governed the field. Therefore, that assessee was justified in not having deducted the tax at source in compliance of such judicial orders. Respectfully following the judgment of the Hon'ble Kerela High Court in State Bank of India, Poovar Branch, Sugathan Complex, Poovar, Thiruvananthapuram vs. Commissioner of Income Tax (supra), we hold that in view of the interim orders of the Hon'ble Madras High Court prevailing during the financial year in question, the assessee cannot be held to be an assessee in default under section 201(1) of the Act. In view of this any liability fastened upon the assessee under section 201(1)/201(1A) cannot survive. It is accordingly deleted. The assessee appeal of the assessee is accordingly held to be allowed.

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

Order pronounced on 21.10.2026 in the open Court.

Sd/-	***Sd/-***
[SUDHANSHU SRIVASTAVA]	**[NIKHIL CHOUDHARY]**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

DATED: 21/10/2026
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Copy forwarded to:
1. Appellant –
2. Respondent –
3. CIT DR, ITAT,
4. CIT,
5. The CIT(A)

By order
Sr. P.S.