IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (DB) BENCH, AGRA

BEFORE: SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

1. ITA No. 151/Agr/2026
(Assessment Year: 2017-18)

SBI, Morena Tiraha Ambah Branch, Morena-476111	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

2. ITA No. 175/Agr/2026
(Assessment Year: 2017-18)

SBI- ADB Sabalgarh Branch, Morena-252313	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

3. ITA No. 265/Agr/2026
(Assessment Year: 2017-18)

SBI, Branch Digoda, Tikamgarh-472339	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

4. ITA No. 337/Agr/2026
(Assessment Year: 2016-17)

SBI, RBO-II, Zonal Office, City Centre Lashkar, Gwalior-474001	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

5. ITA No. 411/Agr/2026
(Assessment Year: 2017-18)

SBI, Palera Branch, Tikamgarh-472221	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

6. ITA No. 420/Agr/2026
(Assessment Year: 2016-17)

SBI, RBO R-5 Shivpuri, Mahal Road Ladha Kothi, Shivpuri-473551	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

7. ITA No. 432/Agr/2026
(Assessment Year: 2017-18)

SBI, NFL Vijaypur, SBI Bavarikheda NFL Complex, Bavarikheda Village, Guna-473111	**Vs.**	ITO, TDS, Aayakar Bhawan, City Centre, Gwalior-474001
PAN: AAACS8577K		
(Appellant)		**(Respondent)**

Assessee by	Shri Dinesh Nair, CA
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	16.09.2026
Date of pronouncement	07.10.2026

ORDER

PER: SUNIL KUMAR SINGH, J.M.

The facts and sole issue involved in these appeals are identical, hence, for the sake of convenience and brevity, these appeals are being decided by this common order.

2. All these appeals have been directed against the various impugned orders passed by ld CIT(A), wherein all the appeals were dismissed. The details of the first appellate proceedings pertaining to section 201(1) and 201(1A) of the Act, are set out in the following table:

Sr. No	ITA Nos.	Assessment Year	First Appeal No.	Date of Impugned Order
1.	151/Agr/2026	2017-18	Addl/JCIT(A)-2 Siliguri/10057/2016-17	15.01.2026
2.	175/Agr/2026	2017-18	Addl/JCIT(A)-2 Siliguri/10055/2016-17	30.12.2025
3.	265/Agr/2026	2017-18	Addl/JCIT(A)-2 Siliguri/10340/2015-16	27.01.2026
4.	337/Agr/2026	2016-17	Addl/JCIT(A)-2 Siliguri/10084/2014-15	27.01.2026
5.	411/Agr/2026	2017-18	Addl/JCIT(A)-2 Siliguri/10089/2016-17	23.12.2025
6.	420/Agr/2026	2016-17	Addl/JCIT(A)-2 Siliguri/10468/2015-16	18.03.2026
7.	432/Agr/2026	2017-18	Addl/JCIT(A)-2 Siliguri/10343/2015-16	27.01.2026

3. At the very outset, it is worth mentioning that, according to registry's report, ITA Nos. 337, 411 & 432/Agr/2026 have been filed by delay of 15, 67 & 45 days respectively. The reasons mentioned in all the applications for condonation of delay are that, the delay occurred due to bonafide administrative reason i.e. requirement of approvals from the competent

authority etc. We treat the cause shown by the assessee bank as sufficient and condone the said delay caused in filing ITA No. 337, 411 & 432/Agr/2026. These time-barred appeals are accordingly admitted for hearing.

4. It is to state that ITA No. 151,175 & 265/Agr/2026 were earlier decided vide common/ consolidated order dated 20.05.2026 and ITA No. 337/Agr/2026 was decided vide separate order dated 24.06.2026. The common issue involved was as to whether ld CIT(A) was justified in confirming the action of the ld Assessing Officer in treating the assessee(a public sector bank) as an assessee in default u/s 201 of the Act and consequential interest u/s 201(1A) of the Act in respect of non-deduction of tax at source for leave fare concession(LFC) given to its employees, who had a foreign stop-over in their travel. The issue was decided against the assessee and appeals were dismissed after hearing the parties on merits by observing "…. that the Ahmedabad tribunal had rendered the decision by placing reliance on the interim order passed by the Hon'ble Madras High Court qua a particular assessee bank branch. Similar interim order was available in the case of Hon'ble Kerala High Court also. No such interim order qua the assessee before us was brought on record by either of the parties…."

5. The assessee bank moved miscellaneous applications MA Nos. 29, 30,31&34/Agr/2026 in all the aforestated four appeals for recalling/setting aside the consolidated tribunal order dated 20.05.2026, (The correct date of separate tribunal order in ITA No. 337/Agr/2026 was 24.06.2026) on the ground that the interim direction granted by the Hon'ble Madras High Court was not restricted to any particular branch of SBI, rather it applied to the assessee bank across PAN India. The tribunal, after hearing the assessee bank, noted that the assessee bank, represented by its Chairman, Corporate Centre, Madam Cama Road, Mumbai, was also a party before the Hon'ble Madras High Court, hence, the said interim order dated 25.04.2014 passed by Hon'ble Madras High Court in MP No. 21/2014 (in WP No. 11991/2024) was applicable to assessee bank as a whole at PAN India level. The aforesaid consolidated order dated 20.05.2026 and separate order dated 24.06.2026 passed by the tribunal were set aside, vide order dated 09.09.2026 passed in assessee's miscellaneous applications to the extent as to the applicability and effect of the Madras high Court interim order with respect to the assessee bank's liability u/s 201 and 201(1A) of the Act, hence these appeals.

6. The remaining ITA Nos. 411,420&432/Agr/2026 are the fresh appeals filed on behalf of the assessee involving same identical issue, hence, these appeals shall also be covered by this common order.

7. We have perused the records. Heard ld representative for the appellant assessee and ld Sr (DR) for the respondent revenue.

8. It is pertinent to mention that the Madras High Court, vide order 25.04.2014, granted an interim stay order until 12.06.2014 in respect of the impugned circular dated 07.04.2014 r/w e-circular dated 15.04.2014 issued by the respondent/State Bank of India, which directed that the officers/ employees shall not be entitled to visit overseas countries/centres as part of LTC/HTC. The conditional interim stay was further extended till the disposal of writ petition vide order dated 16.02.2015 with the direction that if the writ petition is dismissed, the employees shall be liable to pay tax on the amount paid by the bank. The said writ petition was however dismissed on 24.06.2022. This order was challenged before the division bench of the Madras high Court in writ appeal no. 1653/2022 and CMP Nos. 11323 and 23230 of 2022. The DB of Madras High Court, vide order dated 08.06.2023, set aside the order dated 24.06.2022 passed by ld Single Judge of the Madras High Court and the matter was remanded to the respondent bank authorities for fresh consideration after affording opportunity of hearing to the appellant bank officers federation etc. This order was challenged by the bank before the Supreme Court in SLP(C) No. 16734/2023.The Apex Court, vide order dated 08.06.2023, directed that the petitioner bank shall not make any recoveries from its employees during the pendency of the present petition. In another SLP (C) 26667/2024 filed on behalf of the bank,

the Apex court, vide order dated 02.12.2024, stayed the demand notices issued by the department of Income Tax till next date of hearing and this SLP was directed to be tagged with SLP(C) No. 16734/2023 and is still pending before the Hon'ble Supreme Court.

9. Ld representative for the assessee bank has submitted that the issue in hand has been decided in favour of the assessee bank by the Mumbai bench of this tribunal, vide consolidated order dated 03.09.2026 passed in ITA No. 1387/Mum/2026 for A.Y. 2017-18 and ITA No. 1388/Mum/2026 for A.Y. 2016-17 + 37 Other matters.

10. Ld DR has submitted that this tribunal has already dismissed assessee's appeal in view of the order dated 04.11.2022, passed by the Hon'ble Supreme Court of India in State Bank of India v. ACIT, in Civil Appeal No. 8181/2022 (arising out of SLP(C) No. 9876 of 2020), holding that the assessee bank was in default for not deducting tax at source while releasing payments to its employees as Leave Fare Concession (LFC). Ld Sr DR prayed to dismiss assessee's appeal.

11. The limited issue involved before us is as to whether the assessee bank can be treated as assessee in default u/s 201(1) and 201(1A) for not deducting tax from the employee's LFC reimbursements on journey to foreign leg during the period when the interim directions dated 25.04.2014 r.w. 16.02.2015 issued by the Hon'ble Madras High Court were operative. In the present case, all the aforesaid appeals are related either to A.Y.

2017-18 or to A.Y. 2016-17. We note that the issue related to these assessment years was also involved before the Mumbai bench of this tribunal. The Mumbai bench of this tribunal, vide consolidated order dated 03.09.2026, passed in ITA No. 1387/Mum/2026 + 38 Other matters has held as under:

> "62. We have considered the rival submissions, the written submissions filed by the learned DR, the orders of the authorities below and the decisions placed on record by both sides. The substantive question whether LFC reimbursement involving a foreign leg qualifies for exemption under section 10(5) is no longer open for examination. The Hon'ble Supreme Court, in the assessee's own case, has held that such reimbursement does not qualify for exemption and that tax is deductible under section 192.
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> 63. The controversy before us is, however, narrower. It is whether the assessee can be treated as an assessee in default under sections 201(1) and 201(1A) for not deducting tax from LFC reimbursements during the period when the interim directions dated 16.02.2015 of the Hon'ble Madras High Court were operative.
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> 64. The relevant portion of the interim directions of the Hon'ble Madras High Court, as reproduced in the orders placed before us, reads as under:
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> > "The interim order granted by this court is explained to the effect that any amount paid to the petitioner towards LTC or reimbursement of LTC pursuant to the impugned order would not amount to the 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 the bank."
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> 65. The aforesaid direction did more than merely stay recovery of tax. It expressly regulated the manner in which the assessee was required to treat the LFC reimbursement for the purpose of deduction of tax at source. It directed that the payment would not be treated as income so as to enable the assessee-bank to deduct tax at source. It further provided that, if the writ petition ultimately failed, the liability to pay tax would rest upon the concerned employees.
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> 66. We agree with the learned DR that an interim judicial order does not amend section 10(5) or create a substantive statutory exemption. The LFC reimbursements involving a foreign leg continued to possess the substantive character subsequently declared by the Hon'ble Supreme Court. However, the substantive taxability of the reimbursement and the liability of the assessee as a deductor under section 201 are separate questions.

67. Section 201(1) operates where a person who is required to deduct tax fails to deduct it. During the period governed by the interim direction, the assessee was expressly restrained from treating the reimbursement as income for the purpose of deducting tax at source. The assessee could not simultaneously comply with the judicial direction and deduct tax under section 192. Compliance with one obligation would necessarily have resulted in breach of the other.

68. The present conclusion does not import a general defence of reasonable cause into section 201. We accept the Revenue's submission that section 201 does not contain a general reasonable-cause exception comparable to section 273B. Our conclusion rests upon the anterior question whether the assessee could, during the subsistence of the judicial direction, be regarded as having failed to perform an enforceable obligation to deduct tax. A person judicially restrained from deducting tax cannot be said to have failed to deduct tax within the meaning contemplated under section 201(1).

69. We also accept that the judgment of the Hon'ble Supreme Court declaring the correct interpretation of section 10(5) was not prospective. Nevertheless, a subsequent declaration of the substantive legal position cannot retrospectively convert an act performed in obedience to a binding judicial command into a statutory default. The judgment of the Hon'ble Supreme Court determined the taxability of the reimbursement. It did not decide the distinct consequence of a deductor having acted during a later assessment year under an operative judicial direction which expressly restrained deduction.

70. The judgment of the Hon'ble Supreme Court concerned assessment year 2013-14, when the interim direction dated 16.02.2015 was not in existence. The present appeals relate to assessment years 2016-17 and 2017-18. The material distinction is, therefore, not the date on which the Hon'ble Supreme Court pronounced its judgment, but the existence of the specific interim direction governing the conduct of the assessee during the relevant previous years.

71. The learned DR submitted that the assessee was required to establish, payment by payment, that each LFC reimbursement fell within the scope and operative period of the interim order. In principle, there can be no dispute with this proposition. Judicial protection can operate only to the extent of its terms, duration and subject matter.

72. In the present appeals, however, the Revenue has not identified any particular reimbursement pertaining to assessment years 2016-17 or 2017-18 which was paid outside the operative period of the interim direction dated 16.02.2015. Nor has any intervening order applicable during the relevant previous years been brought to our notice whereby the direction not to deduct tax had been modified or vacated.

73. The Revenue has referred to periods from 24.06.2022 to 08.08.2022 and from 08.06.2023 to 28.08.2023, when, according to it, no active stay operated. Those periods fall several years after the previous years relevant to the present appeals. A temporary cessation or modification of protection in 2022 or 2023 cannot retrospectively create a default in relation to payments made during

previous years 2015-16 and 2016-17 when the interim direction dated 16.02.2015 governed the parties.

74. Thus, while we accept the necessity of correlating judicial protection with the relevant payments, the assessment years and chronology contained in the record establish that the impugned reimbursements were governed by the interim direction. No contrary payment-specific material has been brought on record by the Revenue.

75. The chronological position of the relevant judicial decisions is as follows:

Date	**Authority and case**	**A.Y.**	**Outcome relevant to the present controversy**
04.11.2022	Hon'ble Supreme Court in State Bank of India v. ACIT, Civil Appeal No. 8181 of 2022	2013-14	LFC involving a foreign leg not exempt under section 10(5)
27.06.2025	Chennai Bench in State Bank of India v. ITO (TDS), ITA No. 1465/Chny/2024	2015-16	Assessee treated as an assessee in default
18.11.2025	Hon'ble Kerala High Court in State Bank of India v. CIT, ITA No. 45 of 2025, reported in [2025] 180 taxmann.com 837 (Kerala)	2016-17	Sections 201(1) and 201(1A) held inapplicable during the period governed by the Madras High Court direction
30.06.2026	Mumbai Bench in ITA No. 1832/Mum/2026 and connected appeals	2016-17 and 2017-18	Appeals allowed and orders under sections 201(1) and 201(1A) quashed
30.06.2026	Chennai Bench in ITA Nos. 938, 939, 940 and 942/Chny/2026	2016-17 and 2017-18	Appeals allowed by following the Kerala High Court
28.07.2026	Mumbai Bench in ITA No. 2453/Mum/2026 and connected appeals	2016-17 and 2017-18	Appeals allowed by following the earlier Mumbai Bench
19.08.2026	Chennai Bench in ITA No. 734/Chny/2026 and connected appeals	2016-17 and 2017-18	Substantive liability under section 201 sustained.

76. In ITA No. 1832/Mum/2026 and connected appeals, the Coordinate Bench, after considering the earlier decisions and the interim directions of the Hon'ble Madras High Court, recorded the following operative finding:

> "7. The facts being identical in the present case, respectfully following the above decision of the Coordinate Bench, we hold that the assessee is not in default within the meaning of the provisions of section 201/201(1A), and accordingly, the order passed by the Assessing Officer u/s 201/201(1A) is hereby quashed.
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> 8. In the result, the appeal of the assessee is allowed."

77. Before reaching to such findings the Co-ordinate Bench considered various judicial precedents as –

> 5. The Ld. Counsel for the assessee further, referring to thedecision of the Hon‟ble Kerala High Court, which is placed at pages69 to 86 of the paper book, in ITA No.45 of 2025 dated18.11.2025, submitted that recently the Hon‟ble Kerala High Courtheld that the provisions of section 201/201(1A) are not attractedto the facts and circumstances of the assessee‟s case. Ld. Counselfurther stated that the appeal against the decision of the Hon‟bleMadras High Court, which granted interim stay, is still pendingbefore the Hon‟ble Supreme Court for adjudication.
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> 6. Heard rival contentions and perused the orders of theauthorities below. We observe that an identical issue came up forconsideration before various Benches of the Tribunal, including theCoordinate Bench of Mumbai in the case of State Bank of India vs.ACIT in ITAs No.2886 and 2887/Mum/2024. The Tribunal, videorder dated 30.05.2025, held that the assessee cannot be treatedas an assessee-in-default since the directions issued by the Hon‟bleMadras High Court on 16.02.2015 were binding on the assesseeduring the period under consideration. While holding so, theCoordinate Bench observed as under:
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> > "8. We have heard the rival submissions and perused the materialplaced before us. We have also gone through various decisions ofthe coordinate benches cited by the assessee for the sameassessment year, i.e. AY 2016-17. Specifically, in the case of StateBank of India v/s CIT(A) in ITA No.514/Agr/2024, it has been heldby the coordinate bench at Agra as under:
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> > > 4. At the same time, it could be seen that the impugned payments pertain to LTC granted by assessee bank for the period 15-02-2016to 24-02-2016 when the operation of interim order dated 16-02-2015of Hon'ble High Court of Madras was in operation, the relevant portion of which read as under: -
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> > > "6. The interim order granted by this court is explained to the effect that any amount paid to the petitioner towards LTC or reimbursement of LTC pursuant to the impugned order would not

> amount to the 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 the bank."
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> The Hon'ble Court thus restrained the assessee bank not to deduct tax at source on such reimbursement. Finally, the decision has been rendered by Hon'ble High Court of Madras in case titled as All India State Bank Officers Association us. SBI (140Taxmann.com 221; dt. 14-06-2022) holding that withdrawal of additional facility would not infringe services rights or service conditions of officers of respondent bank and therefore, there was no perversity in respect of decision taken for withdrawal of additional concession granted to officers of respondent bank to travel abroad under LTC. It is thus clear that at the time of impugned payments, the interim order of Hon‟ble High Court of Madras was in force which assessee bank was bound to follow.We concur that assessee bank had no option but not to deduct TDS on such reimbursements as per the interim order of Hon'ble Madras High Court. The directions given by the Hon'ble High Court were binding on the assessee and had the assessee deducted tax at source on impugned payment, it would have been contrary to the orders of Hon'ble High Court which could have amounted to contempt of court order. Finally, the decision in the aforesaid case has been rendered by Hon'ble High Court on 14-06-2022. Under these circumstances, we would hold that assessee bank, by interim order of Hon'ble High Court of Madras, 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. We order so. The impugned demand as raised against the assessee stand deleted."

78. The subsequent Co-ordinate Bench in ITA No. 2453/Mum/2026 and connected appeals examined the distinction between the substantive taxability of the LFC reimbursement and the default of the assessee as a deductor. The relevant findings read as under:

> 32. The fact that the Hon‟ble Supreme Court subsequently settled the substantive issue relating to exemption under section 10(5) against the assessee does not alter the position obtaining during the period when the binding interim order governed the parties. The issue of substantive taxability of the reimbursement and the issue whether the assessee could be declared an assessee in default for obeying a subsisting judicial order operate in distinct fields. The subsequent declaration of the correct legal position cannot retrospectively convert an act performed in obedience to a binding judicial direction into a default under section 201(1).”
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> “35. The facts of the present appeals are, therefore, materially identical to those considered by the Co-ordinate Bench in ITA No. 1832/Mum/2026 and connected appeals. No distinguishing feature has been brought to our notice. The learned Departmental Representative also agreed that the issue stood covered by the decisions of the Co-ordinate Benches.

> 36. Respectfully following the aforesaid decision of the Co-ordinate Bench, we hold that the assessee cannot be treated as an assessee in default under section 201(1) in respect of the impugned LFC reimbursements. Consequently, the interest charged under section 201(1A), being consequential to the default contemplated under section 201(1), cannot survive.
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> 37. Accordingly, the orders passed by the Assessing Officers under sections 201(1) and 201(1A), as sustained by the learned CIT(A), are set aside and the demands raised in all the appeals are deleted."

79. The Chennai Bench, in SBI Coimbatore Branch and connected appeals v. ACIT/ITO (TDS), ITA Nos. 938, 939, 940 and 942/Chny/2026, also considered the judgment of the Hon'ble Supreme Court and the intervening judicial directions. In paragraph 9, the Co-ordinate Bench noted that there was no dispute regarding the subsequent judgment of the Hon'ble Supreme Court holding that LFC reimbursement involving foreign travel was not exempt under section 10(5). It, however, found that during the previous years relevant to assessment years 2016-17 and 2017-18, the assessee was governed by the binding directions of the Hon'ble Madras High Court not to recover tax from the employees on such payments. The Bench further observed that, although the Hon'ble Supreme Court subsequently stayed the judgment of the Hon'ble Madras High Court, it specifically directed the assessee-bank not to make recoveries from its employees during the pendency of the proceedings. Considering that the obligation under section 192 was required to be determined at the time of payment on the basis of a bona fide estimate of the employee's income, the Bench held that the subsisting judicial directions precluded the assessee from deducting tax during the relevant period. Following the judgment of the Hon'ble Kerala High Court in the assessee's own case on identical facts, the Bench concluded as under:

> "10. In view of the above legal position, we are of the considered opinion that the appellant bank cannot be treated as „assessee in default‟."
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> "13. To sum up, all the four appeals filed by the Assessee are allowed."

80. More importantly, the aforesaid decision followed the judgment of the Hon'ble Kerala High Court in State Bank of India v. CIT, ITA No. 45 of 2025, wherein the effect of the very same interim directions was examined. The relevant findings of the Hon'ble Kerala High Court, as reproduced in the order of Coordinate Bench, read as under:

> "But in the case at hand, when so visualised, there cannot be any dispute that the appellant-assessee could not have made any deduction in view of the interim order issued as noticed earlier. 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. For the same reasons, the provisions of sub-section (1A) of Section 201 of the Act providing for the levy of interest are also not attracted."

81. The Hon'ble Kerala High Court expressly distinguished the judgment of the Hon'ble Supreme Court on the basis of the assessment year and the operation of the interim directions:

> "We also take note of the fact that the Apex Court, by judgment dated 04.11.2022 in State Bank of India v. Assistant Commissioner of Income-tax [2022] 144 taxmann.com 131/449 ITR 192/[2023] 290 Taxman 129(SC)/Civil Appeal No.8181 of 2022, has found that, as against payments made by the appellant bank to its employees towards LTC, it was bound to deduct tax at source. But this finding was with respect to the Assessment Year 2013-14 (financial year 2012-13). In the case at hand, during the financial year 2015-16 relevant to the assessment year 2016-17, the interim directions issued by the Madras High Court governed the field, and the appellantassessee was justified in not having deducted the tax."

82. The judgment of the Hon'ble Kerala High Court, though not of the jurisdictional High Court, is a decision of a superior constitutional court directly on the same issue, involving the same assessee, the same interim direction and the same assessment year. No order staying or reversing the said judgment has been placed before us. Its ratio possesses greater persuasive authority than a contrary order of a Tribunal Bench.

83. The first decision relied upon by the learned DR is the order dated 27.06.2025 in ITA No. 1465/Chny/2024. The Chennai Bench sustained the order under sections 201(1) and 201(1A) and observed:

> "We note the ld. CIT(A) observed that there was no stay from 24.06.2022 to 08.08.2022 and from 08.06.2023 to 28.08.2023 and that the assessee neither deducted tax on LTC nor made recovery, accordingly held the order of the Assessing Officer is correct in holding that the assessee is in default for non-deduction of TDS during 24.06.2022 to 08.08.2022 and from 08.06.2023 to 28.08.2023. We find no infirmity in the order of the ld. CIT(A) as we completely agree with the reasons recorded from paras 5.8 to 5.10 of the impugned order in confirming the order of the Assessing Officer. Thus, the grounds raised by the assessee are dismissed."

84. This decision was pronounced on 27.06.2025. It preceded the judgment of the Hon'ble Kerala High Court dated 18.11.2025 and, therefore, did not have the benefit of the later judgment directly deciding the effect of the interim directions upon liability under sections 201(1) and 201(1A).

85. Further, the Chennai Bench relied upon periods in 2022 and 2023 during which the interim protection was considered not to be operative. The appeal before it pertained to assessment year 2015-16, while the present appeals,

according to the Tribunal appeal particulars, relate to assessment years 2016-17 and 2017- 18. The cessation of protection during specified periods in 2022 and 2023 does not answer whether the assessee committed a default in relation to payments made in the earlier previous years when the interim direction dated 16.02.2015 was operative.

86. The second decision relied upon by the learned DR is the order dated 19.08.2026 in ITA No. 734/Chny/2026 and connected appeals. The Chennai Bench held:

> "5. The obligation of deducting tax is distinct from the payment or recovery of tax. Even if recovery proceedings were suspended or the bank was prevented from recovering amounts from employees, the duty to deduct TDS, based on the taxability of the income still exists."
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> "7. In the result, the appeal of the appellants are dismissed on substantive issue and partly allowed for statistical purposes only on the issue of interest u/s. 201(1A) of the Act."

87. The order dated 19.08.2026 is later in point of time. Mere chronology, however, does not resolve a conflict between Coordinate Bench decisions. The later Chennai order does not discuss or distinguish the earlier Chennai order dated 30.06.2026 in ITA Nos. 938, 939, 940 and 942/Chny/2026. It also does not analyse the Mumbai Bench orders dated 30.06.2026 and 28.07.2026, although those orders had already been pronounced.

88. The order in ITA No. 734/Chny/2026 records the judgment of the Hon'ble Kerala High Court in its chronology, but does not examine or distinguish its ratio that sections 201(1) and 201(1A) are not attracted where the assessee could not deduct tax because of the interim direction. The conclusion of the Coordinate Bench was also substantially founded upon periods in 2022 and 2023 when the stay was considered inoperative, without correlating those periods to the payments pertaining to assessment years 2016-17 and 2017-18.

89. We are, therefore, unable to apply the two adverse Chennai Bench orders to the present appeals. The decision in ITA No. 1465/Chny/2024 preceded the directly applicable judgment of the Hon'ble Kerala High Court. The subsequent decision in ITA No. 734/Chny/2026 did not reconcile the contrary superior-court authority or the earlier Co-ordinate Bench decisions rendered on the same issue.

90. Our conclusion does not rest merely upon the numerical preponderance of decisions. It follows from the language of section 201, the precise terms of the interim direction and the chronology of the relevant payments.

91. The substantive taxability of LFC involving a foreign leg stands concluded against the assessee. However, section 201(1) requires a failure by a person who was required to deduct tax. During the relevant previous years, the assessee was expressly directed not to treat the reimbursement as income so as to deduct tax at source. The same order placed the eventual tax liability upon the employees if the writ petition failed.

> 92. The assessee could not have deducted tax without acting contrary to the judicial direction. The later declaration of substantive taxability did not retrospectively erase the judicial restraint or render the assessee's compliance therewith a default. The statutory obligation to deduct tax had to operate subject to the binding order governing the parties at the time of payment.
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> 93. The Revenue's apprehension that this conclusion would create a substantive exemption is misplaced. We do not hold that the reimbursements were exempt under section 10(5). We hold only that the assessee cannot be treated as an assessee in default under section 201(1) for not deducting tax during the period when it was judicially restrained from doing so. The substantive tax liability of the concerned employees is not the subject matter of these appeals and remains unaffected.
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> 94. Respectfully following the judgment of the Hon'ble Kerala High Court and the Co-ordinate Bench orders in ITA No. 1832/Mum/2026, ITA No. 2453/Mum/2026 and ITA Nos. 938, 939, 940 and 942/Chny/2026, and for the independent reasons recorded above, we hold that the assessee cannot be treated as an assessee in default under section 201(1). Consequently, interest under section 201(1A), being founded upon the default contemplated under section 201(1), cannot survive.
>
> 95. The orders passed under sections 201(1) and 201(1A), as sustained by the respective first appellate authorities, are accordingly set aside and the demands raised in all 21 quantum appeals are deleted. The alternative ground concerning the first proviso to section 201(1) is rendered academic and is left open."

12. In the instant case, the assessee bank was judicially bound under the interim direction of the Hon'ble Madras High Court during the relevant period and therefore, could not have deducted tax at source. The subsequent order dated 04.11.2022 passed by the Hon'ble Apex Court in respect of the substantive legal decision may not retrospectively convert an act performed in obedience to the binding judicial command into a statutory default. Hon'ble Kerala High Court has examined the issue and expressly distinguished the judgment of the Hon'ble Supreme Court on the basis of assessment year and the period of said interim protections granted by the Madras High Court. All these aspects have been dealt with by the Mumbai

bench in details. We are in respectful agreement with the order dated 03.09.2026 passed by the Mumbai bench of the tribunal and hold that the assessee bank cannot be treated as assessee in default u/s 201(1). Consequently, the interest u/s 201(1A) being founded upon the default contemplated u/s 201(1) does not survive. The aforesaid issue involved in all the aforesaid appeals is accordingly decided in positive in favour of the assessee bank and against the revenue.

13. We direct that our earlier findings given in para 4 and 5 of the consolidated order dated 20.05.2026 passed in ITA No. 151,175 & 265/Agr/2026 and para 6 and 7 of our earlier separate order dated 24.06.2026, passed in ITA No. 337/Agr/2026, stand substituted by this order.

14. In the result, all the seven appeals are allowed.

Order pronounced in Open Court on - 07.10.2026

Sd/-	***Sd/-***
(BRAJESH KUMAR SINGH)	**(SUNIL KUMAR SINGH)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 07.10.2026
*Aamir, PS

Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra