

IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES 'A' JAIPUR

BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

ITA. No. 422, 423 & 424/JP/2018
Assessment Year : 2013-14, 2014-15 & 2015-16

M/s Eid Mohammad Nizamuddin, Subhash Bazar, Tonk	Vs.	ITO TDS-3, Jaipur
PAN/GIR No.: JDH101315G		
Appellant		Respondent

ITA. No. 778, 776 & 777/JP/2018
Assessment Year : 2013-14, 2014-15 & 2015-16

ITO TDS-3, Jaipur	Vs.	M/s Eid Mohammad Nizamuddin, Subhash Bazar, Tonk
PAN/GIR No.: JDH101315G		
Appellant		Respondent

Assessee by : Sh. Mahendra Gargieya (Adv)
Revenue by : Sh. K. C. Gupta (JCIT)

Date of Hearing : 20/01/2020
Date of Pronouncement : 15/04/2020

ORDER

PER: VIKRAM SINGH YADAV, A.M.

These are cross appeals filed by the assessee and the Revenue against the respective orders of Id. CIT(A)-3, Jaipur dated 05.03.2018 for A.Y 2013-14, 2014-15 and 2015-16 respectively. Since the common issues are involved, all these appeals were heard together and are being disposed off by this consolidated order.

2. With the consent of both the parties, the matter pertaining to financial year 2012-13 relevant to A.Y 2013-14 is taken as the lead case for the purposes of present discussions wherein the respective grounds of appeal are as under:-

ITA No. 422/JP/18 (Assessee's appeal):

"1. The impugned order passed u/s 206C(6) r/w 206C(7) of the Act dated 05.03.2018 is bad in law and on facts of the case, for want of jurisdiction and for various other reasons and hence, the same kindly be quashed.

2. The Id. CIT(A)-III, Jaipur erred in law as well as on the facts of the case in holding that the impugned order passed u/s 206C(6) r/w 206C(7) of the Act dated 06.03.2017 by the ITO, is not barred by limitation and therefore, erred in upholding the validity of the impugned order. The impugned order so passed on dated 06.03.2017 i.r.t F.Y 2012-13 after a lapse of a long period, is contrary to the intention of the legislature and to the various judicial pronouncements and hence, is certainly barred by limitation and therefore, the same kindly be quashed in lime line.

3.1 Rs. 1,77,360/-: The Id. CIT(A)-III, Jaipur erred in law as well on the facts of the case in confirming the demand raised by the ITO due to alleged non collection of Tax at Source (TCS) u/s 206C(6) of the Act, which is the entire amount of sales itself and otherwise also is completely contrary to the provisions of law and facts in as much as Rs. 1,77,360/- is gross amount of sales effected by the assessee and not merely 5% TCS thereon. Hence, the impugned demand kindly be quashed and deleted in full.

3.2 The Id. CIT(A)-III, Jaipur further erred in law as well as on the facts of the case in raising demand of interest in relation to the alleged

non Collection of Tax at Source (TCS) u/s 206C(7) of the Act, which is completely contrary to the provisions of law and facts hence, kindly be quashed and deleted in full.

4. *The Id. CIT(A)-III, Jaipur further erred in law as well as on the facts of the case in not considering that the present case fall under u/s 206C(1A) r/w Rule 37C in as much as the entire subjected sales was made to the ultimate consumers for use in manufacturing, processing or producing and hence the provision of s. 206C was not applicable."*

ITA No. 778/JP/18 (Revenue's appeal):

"1. *Whether on the facts and in the circumstances of the case, the Id. CIT(A) is justified in allowing relief on the basis of additional evidence without calling for remand report under Rule 46A and enquiry under Sec 250(4) of the Income Tax Act, 1961.*

2. *Whether on the facts and in the circumstances of the case, the Id. CIT(A) is justified in deleting the demand without appreciating the fact that the assessee deductor has failed to make payment of interest u/s 206C(7) and not mentioning details of challans in the prescribed Form 27BA before submission with claim of relief in view proviso to Sec. 206C read with Notification No.12/2016 dated 08.12.2016.*

3. *Whether on the facts and in the law, the Id. CIT(A) is justified in setting aside the issue to the AO for verification and directed to allow relief on verification u/s 250(1) as per the ratio of judgment in the case of M/s Hindustan Coca Cola (P) Ltd. where the words "he may set aside" have been omitted after amendment w.e.f. 01.06.2001.*

4. *Whether on the facts and in the circumstances of the case, the Id.CIT(A) is justified in holding that there is no material difference in the provisions of tax deduction at source (TDS) under Chapter-XVIIIB and tax collection at Source (TCS) under Chapter-XVIIIBB of the Income Tax Act,*

1961 and the facts & the judgment held on assessment proceedings u/s 201(1)/201(1A) for Default in the case of M/S Hindustan Coca Cola (P) Ltd are squarely applicable in the case of the assessee for assessment proceedings u/s 206C(6)/206C(7) of the Act for TCS defaults.”

3. Briefly stated, the facts of the case are that the assessee is a partnership firm engaged in the business of manufacturing & trading of Bidi leaves at Tonk and Uniyara & in trading of Tendu leaves, which are mainly affected in states of Rajasthan, M.P (Betul) & Maharashtra. A survey u/s 133A(2A) was conducted on 23.03.2015 at the business premises of the assessee and during the course of survey proceedings, it was found that the assessee firm has sold Tendu Leaves to various parties which falls under the category of forest produce and the assessee was required to collect tax at source as per the provisions of section 206C(1) of the Income Tax Act, 1961. During the course of survey, statement of Sh. Moinuddin, a partner of the assessee firm was also recorded and the relevant contents of the statement, reproduced in the assessment order passed u/s 206C(6)/206C(7) dated 6.03.2017, reads as under:-

“प्रश्न-4 कृपया आप बताएं कि तेंदु पत्तों का व्यापार तथा बीड़ी बनाने की प्रक्रिया बताएं एवं किन-किन राज्यों के साथ तथा राज्यों का नाम भी बताएं।

उत्तर — मैं बीड़ी तथा तेंदू पत्ते का व्यापार मैं. ईद मोहम्मद निजामुद्दीन फर्म के अन्तर्गत साझेदार के रूप में कार्य करता हूँ तथा तेंदू पत्ते का व्यापार राजस्थान, मध्यप्रदेश एवं महाराष्ट्र राज्यों के साथ करता हूँ तथा बीड़ी बनाने का कार्य उनियारा तथा टोंक में किया जाता है।

प्रश्न-7 सर्वे आयकर अधिनियम की धारा 133ए (2ए) की कार्यवाही के दौरान तथा बहीखातों के निरीक्षण करने पर पाया गया कि उपरोक्त फर्म राजस्थान, मध्यप्रदेश तथा महाराष्ट्र राज्यों के साथ तेंदु पत्ते की बिक्री पर उपरोक्त फर्म टी.सी.एस. का संग्रहण कर सरकारी खातों में धारा 206सी (1) के तहत 5 प्रतिशत की दर से जमा करवाती है या नहीं।

उत्तर— नहीं हमने तेंदू पत्तों की बिक्री पर कोई टी.सी.एस. संग्रहीत नहीं किया है।

प्रश्न-8 कृपया आप बताएं कि तेंदू पत्तों के व्यापार पर टी.सी.एस का संग्रहण करके जमा नहीं कराने की स्पष्टीकरण दें।

उत्तर- तेंदू पत्तों के सभी खरीददार टेक्सपेयर है तथा बीड़ी निर्माता है, उन्होंने अपनी आयकर विवरणी में पत्ते खरीद रकम को बही खाते में इन्द्राज करके आयकर रिटर्न पेश कर दी है जिसमें पत्तों से बनी हुई बीड़ी के विक्रय के लाभ को आय में शामिल करके आयकर जमा करा दिया गया है यहां कर लगाना दोहरा कर लगाना होगा। कोई भी स्थानीय व्यापारी तथा राजस्थान एवं अन्य राज्यों के व्यापारी भी इस तरह का दोहरा कर (टी.सी.एस.) संग्रहण नहीं कर रहे है।

प्रश्न-9 आपका उत्तर नं.8 है कि तेंदु पत्ता के सभी खरीददार टेक्सपेयर है तो कृपया बताएं कि आपने फॉर्म 27 जमा तथा डिक्लेरेशन सर्टीफिकेशन ऑफ बायर (Rule-37C) जमा करा रखा है या नहीं।

उत्तर - डिक्लेरेशन सर्टीफिकेशन आफ बायर (Rule 37C) के तहत फॉर्म 27 सी जमा नहीं कराया है। लेकिन हमने फॉरेस्ट विभाग से टैक्स देकर कच्चे पत्ते को प्रोसेस किया और उपरोक्त सर्टिफिकेट न लेने की स्थिति में जिन बायरस को पत्ता विक्रय किया है उनसे इस विषय का सर्टिफिकेट मंगवाने के लिये लिखा गया है और इस विषय में आपके कार्यालय को मय बायर के पूर्ण पते के सूचित कर दिया गया है और ऐसी स्थिति में विभिन्न उच्च न्यायालय में एवं उच्चतम न्यायलय के निर्णय है। आप इस बिन्दू पर कार्यवाही मात्र कुछ दिन पहले प्रारम्भ की गई है और हमारी ओर से दिनांक 10.03.2015 को निवेदन किया है कि सम्बन्धित निर्धारण अधिकारी द्वार मालूम करा लिया गया है कि उन्होंने पत्ता खरीद व विक्रय अथवा बीड़ी पर कर जमा करा दिया अथवा नहीं और ना ही हमारा केस धारा 206 की परिधी में नहीं आता है जिसका कोई उत्तर हमे आज तक नहीं दिया गया है और इसी विषय में दिनांक आज 23.03.2015 को पत्र प्रस्तुत किया है। आपकी इतने वर्षों की क्वेरी के लिए जबाब तैयार करने के लिए बहुत कम समय दिया गया है कृपया समय और दिया जाए।”

4. The Assessing officer, relying on the aforesaid survey proceedings and statement of the partner of the assessee's firm so recorded during the course of survey, observed that the assessee firm has failed to collect tax at source from buyers of Tendu leaves and also failed to submit Form No. 27C in the prescribed form to the effect that the goods are to be utilized for the purpose of manufacturing, processing or producing articles or thing and not for trading purposes and accordingly, a show cause notice dated 21.09.2015 was issued to the assessee firm as to why the assessee firm should not be considered as an assessee in default for non collection of TCS on sale of Tendu Leaves

amounting to Rs. 25,58,31,594/- as the amount received from the buyers are in the nature of trading in Tendu Leaves.

5. The assessee firm, in response to the show-cause notice, submitted that action on the part of the Assessing officer is pre-mature and without valid jurisdiction as the Assessing Officer, before invoking the provisions of section 206C(6) & 206C(7) has to satisfy himself that the concerned buyers to whom subjected sales has been made have already considered the subjected sales and paid tax thereon or not and without having fulfilled this condition or without having made such enquiries, the proceedings u/s 206C(7) and 206C(7) of the Act cannot be initiated and in support, reliance was placed on the decision of the Hon'ble Karnataka High Court in case of Shree Manjunatha Wines vs. CIT (2011) 202 Taxman 620 (Kar).

6. Further, during the assessment proceedings, the Assessing officer asked the assessee firm to reconcile the figures of turnover along with supporting documentary evidence and asked it to furnish Form No. 27BA/ITR, if any, of all the parties. In response, the assessee firm vide its submission dated 13.02.2017 submitted certificate/Form No. 27BA from the parties/accountant as prescribed in first proviso to section 206(C)(6A) of the Act.

7. The Assessing Officer, thereafter, referring to the statement of the partner of the assessee firm recorded during the course of survey, held that nowhere in the statement, the assessee has accepted the default. Thereafter, referring to the provisions of section 206C, it was held by the Assessing officer that the products sold by the assessee falls under the category of "Forest produce" and hence, the assessee was required to collect tax at source as per the provisions of section 206C of the Act which the assessee has failed to collect.

8. Further, referring to the provisions of sub clauses (1A) & (1B) of section 206C of the I.T. Act, 1961, the Assessing Officer held that the assessee firm failed to obtain the requisite forms in Form No. 27C from the buyers and submit the same to the Id. CIT(TDS) within the stipulated time. Regarding filing of Form No. 27BA and submission of the assessee firm that the parties who have purchased the Tendu Leaves have duly recorded the same in their respective books of accounts and maximum number of buyers have furnished their return of income u/s 139(1), it was observed by the Assessing Officer that he has gone through the documentation so submitted by the assessee firm and on perusal thereof, it is noticed that complete information in the Form/certificate have not been given by the accountant/party as required by the legislature and most of the columns are either not filled up as required or simply mentioned as per details/enclosure. Moreover the accountant has signed the forms with conditional remarks "As certified by the buyer" whereas the forms should have been filled up and certified by the accountant itself on the basis of records. Further, some of the parties have not filed return on or before due dates prescribed u/s 139 of the I.T. Act, 1961. It was accordingly held by the Assessing officer that the assessee firm has failed to fulfill the condition laid down as prescribed in the first proviso to section 206C(6A) of the Act and the assessee was held to be an assessee in default and demand of Rs. 1,93,86,906/- was raised on the assessee consisting of Rs. 1,28,01,338/- towards TCS u/s 206C(6) and Rs. 65,85,568/- towards interest payable u/s 206C(7) of the Act.

9. Being aggrieved, the assessee carried the matter in appeal before the Id. CIT(A) and the submissions made before the Assessing Officer were reiterated. It was further submitted *interalia* as under:-

"3. *Directly covered by the decision of CIT(A) in A.Y. 2008-09: Before proceeding further, at the outset it is submitted that all the contentions*

raised now were also raised in A. Y. 2008-09 wherefrom this controversy arose from the first time and your Id. Predecessor had accepted the contentions and granted substantial relief in appeal no. 46/2015-16 vide her order dated 29.02.2016 (refer PB 102-131 in A.Y. 2010-11). The facts and circumstances being exactly identical in this year also, the same decision has to be applied. More particularly when, the department not having gone in further appeal, the said order had become final.

4. *Under this background, the assessee specifically agitated before the ITO, the invoking of Sec.206C of the Act vide its letter dated 25.01.2017 stating that out of 26 parties, the maximum number of buyers are already (i) assessed to tax, (ii) have already furnished their return of income u/s 139(1) of the Act (iii) they have already taken into account the cost of the purchases of tendu leaves made from the assessee firm while computing the total income for the above return of income and (iv) have already paid the income tax due on the incomes declared in the said return of income. In most of the cases, PAN numbers were also submitted to the ITO vide the letter of the assessee filed on dated 13.02.2017. In support of the above facts, showing three categories of the buyer-payees, were also admittedly submitted.*

Category A: The names of 14 buyers and the respective amount of sales made to them totaling to Rs.25,57,81,536/- (who have already filed their ROI and paid the due tax) along with copies of certificates as admitted by the Id ITO at pg-7 of the impugned order.

Category B: The names of 11 buyers and the respective amount of sales made to them totaling to Rs. 1,59,72,693/- along with copies of certificates (with PAN) as admitted by the Id ITO at pg-7 of the impugned order.

Category C: For the remaining amount of the sales, the assessee was and is still in the process of collecting the requisite details and certificates on this aspect but their PAN were made available.

The ITO did not deny from these facts but rather failed to rebut the same and rejected merely on suspicion on the ground that copies of the respective returns from those buyer parties were not submitted before him. The ITO however, did not deny that no tax remained payable in the hands of the buyers. The ITO having not satisfied this pre requisite by making necessary enquiry to this effect, lacked jurisdiction and therefore, the impugned order deserves to be quashed in full.

5. Copy of Samman Patra dated 25.07.2002 issued by the CIT, Kota being the highest taxpayer award in income from business category for AY 1999-2000 in Additional CIT, Sawai Madhopur Range. This shows that the assessee is a law abiding respected citizen and also a respected tax payer whose conduct is not contumacious which aspect, kindly be taken into consideration while deciding the present appeal.

6. Even after filing sufficient and voluminous evidences which clearly served the purpose in substance, the ITO made various allegations which are more in the nature of suspicion and not substantial, as submitted herein below w.r.t each allegation:

<i>S. No.</i>	<i>ITOs Comments</i>	<i>Assessee</i>
<i>1.</i>	<i>Complete information in the forms / certificates have not been given by the Accountant/ Party, as required by the legislature and most of the columns are either not filed up as required or simply mentioned as per details/enclosure</i>	<i>> It is a vague allegation and without giving specific details of the particular form / certificates lacking details. The ITO has not pointed out specifically which column, details were not filled in. There may be some BSR code w.r.t. the payment of tax made by the buyer (tax payee) and other some minor details but the Id. ITO has conveniently ignored the categorical certification given by the buyer payee reading as under:</i> <i>"1. That we have furnished our Return of Income u/s 139(1) of the Act for the above year.</i> <i>2. That we have taken into account</i>

		<i>the cost of purchase of Tendu Leaves including CST of Rs from M/s Eid Mohammed Nizamuddin Tonk (Raj.) for computing the income in the above return.</i> <i>3. That we have paid Income Tax due on the income declared by us in the return."</i> <i>> A bare perusal of the said certificate make it clear that the assessee has fully complied with and established requirement of law in substance. When the payee has categorically confirmed the fact of inclusion of the purchases made in its account while preparing ROI and even confirmed having paid the tax thereon there remains nothing. The amendment in the law and the Rule were prescribed keeping in mind the ratio laid by the Hon'ble Apex Court in the case of Hindustan Coca Cola (Supra). The ITO has not at all denied in the entire order that the appellant has not complied with the requirement prescribed in Hindustan Coca Cola (Supra), on the fulfillment of which, the assessee deductor was fully entitled to get the benefit of the proviso to S.206C(6A).</i> <i>> Even then, if the ITO was still doubtful of the fact of the buyer-payee making the tax payment nothing prevented him to make enquires directly from his counter part, having the jurisdiction over that particular buyer payee to bring the truth on surface.'But without exercising these powers and by merely making and repeating allegations upon the assessee deductor (as if everything is to be done by the assessee deductor only whether he is capable of getting all the informations in absence of any legal power conferred upon it and in absence of suitable infrastructure).</i>
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2.	<i>Accountant has signed the forms with conditional remarks "As certified by the buyer" whereas the forms should have been filled up and certified by the accountant itself on the basis of records</i>	<i>It was the Id. Chartered Accountant who signed the certificate is an expert upon which even the legislature has reposed confidence. If the expert has certified certain facts in a particular manner it is for him and the assessee has no role to play.</i> <i>Careful reading of the certificate show that the CA was required, only to certify the basic requirements of the proviso. The further details were to be mere filled up as supplied to him but was not required to be certified as wrongly understood.</i> <i>Allegation is ignoring the fact that a substantive compliance was fully and duly made by the assessee in as much as such form was based on the certificates given by the concerned buyer duly signed.</i> <i>If the ITO was not satisfied he could have directly enquired the Id. CA to get a confirmation of the fact certified by him. Needless to say that this is a case very similar to a case where the ITO has made some disallowance or addition which is totally contrary to the provision of law, the only remedy left with the poor assessee is to file an appeal, but the assessee could not have stopped the ITO from doing his job whether right or wrong. Similarly, so far as the assessee is concerned, he discharged his duty by pressing a certificate of an expert and unless contrary evidence is brought on record by the ITO as regards proving the incorrectness of the fact certified by the expert, the ITO was bound to have accepted the certificate of the expert. As stated, ITO chose not to make any inquiry to prove the incorrectness in the certificate of the expert. Hence he is not entitled to make an allegation of this type, which is prayed to be ignored</i>

		<i>altogether.</i> ➤ <i>There is nothing to show that the Accountant himself has not filed up and certified such certificates. In absence of any contrary evidence such certificate could not have been doubted.</i>
3.	<i>The accountant has also ignored the vital facts that some of the parties have not filed return on or before due dates prescribed u/s 139 of the IT, Act, 1961.</i>	➤ <i>It is absolutely incorrect allegation that the CA has ignored the vital fact of non-filing of the ROI by some of the parties on / before the due date in as much as, in all the certificates, the fact of filing of ROI in due time has been stated. The Id. ITO has not at all, especially pointed out such cases. But even otherwise, the substantive fact is that the buyer payee assessee have filed their ROI and paid the tax thereon. If there is a delay in filing ROI, the amount of interest chargeable may increase, but the benefit cannot be denied.</i> > <i>Buyers PAN & TAN was also mentioned in Form 27BA. Needless to say that all such details were already available online and it was within the reach of the ITO himself to verify the details online.</i>
4.	<i>The assessee has claimed earlier that the parties / purchasers are scattered at distant and remote places of Rajasthan, MP and Maharashtra, whereas all forms 27BA has been signed by same accountant on a single date.</i>	<i>How the Id. Chartered Accountant that is the expert could sign the certificate on a single date. Firstly, does not reduces the evidently value thereof which is binding even upon the ITO and if, the ITO was having the suspicion, he must have brought contrary facts on record to negate the claimed state of affairs.</i>

5.	<i>The legislature has introduced the proviso to end the litigation for non collection of TCS on payment of interest as per proviso, whereas the deductor has opted both option of litigation i.e. challenging the liability of interest on TCS on the sale of Tendu Leaves before the appellate authorities in the earlier years and other way it has claimed benefit for proviso without paying or agreeing to pay the interest as per first proviso to sec.206(C)(6A) of the IT, Act, 1961</i>	<i>Such allegation is beyond understanding. An assessee has got all the right to challenge the proceedings from all angles / aspects and to avail all the remedies available and there can't be any prohibition thereon.</i>
6	<i>Further that the certificates were signed on a single day.</i>	<i>Nothing more than a suspicion. If it was manageable for the CA to have discharge his job on one day, which is quite possible looking to the nature and quantum of the work, there was nothing wrong.</i>

Unfortunately, the Id. ITO instead of admitting these certificates which are binding upon him being filed as required by the law and finding that there was no escape from accepting what the assessee has said and granting relief is trying to run away on one pretense or the other, which was not fair on his part.

Thus, there is absolutely no substance in the allegations of the observations of the ITO (TDS)-3 and deserves to be ignored. He completely failed to disprove the various facts, figures evidences brought on record proving the compliance of the law to get the benefit.

6.1 It is further pertinent to note that the certificates and declaration are being filed in similar method and manner / similar type right since beginning however, no such objection was raised in the past. In F. Y. 2007-08, when additional

evidences filed, the Id. ITO in the remand report did not raise any such objection and matter stood accepted by the Id. CIT(A) also in appeal no. 46/JPR/ 15-16 dated 29.02.2016 (A. Y. 2013-14)]. Similarly in F.Y. 2008-09 also, the concerned ITO (TDS) also accepted the certificate of chartered accountant which were prepared in the similar manner. Kindly refer order dated in appeal no. 46/2015-16 vide her order dated 29.02.2016 in A.Y. 2010-11. But when in the past department it-self has accepted, there appear no reasons as to why they should not accept the certificates in this year in absence of any change in the facts and circumstances of the case. Thus, the allegations of the ITO are nothing but mere suspicion and a pretence not to give the benefit to the assessee to which, it otherwise deserved.

6.2 The ITO (TDS) has completely failed to understand that in the matter of TDS and TCS, it is tax of a third party and not of the assessee. So far as assessee is concerned it has declared the income earned by it and paid huge tax and it cannot be denied that the assessee is amongst one of the highest tax payer (was awarded earlier) also. Simply, minor defect/ deficiencies, if any, and that too while deducting the TCS (being the tax liability of third party) the assessee cannot be penalized and this behavior of the department is nothing sort of harassment of an honest taxpayer citizen of the country. We have already submitted that despite repeated request the predecessor Id. ITO had started proceedings of all the year and / pressed for the submissions of the details, making for the assessee almost difficult even to carry out its day to day business even though such proceedings were not getting time barred and there were no saving compulsion upon the officer.

7. The Id. ITO at Pg-6 has narrated the fact of granting opportunities to the assessee however, he has conveniently ignored the request of the assessee (though reproduced in the impugned order itself at Pg-5) that the order of the Id. CIT(A) in the first year i.e. F. Y 200708 was pending decision before the Id. CIT(A) and it was proper to wait for the decision which could be taken as a

guidance for the later years. Moreover, details were to be obtained from various parties / purchasers scattered at distant and remote places of Rajasthan, MP and Maharashtra. It can't be denied that the assessee was dependent upon those parties who are having their upper hand and were not obliged to act upon the direction of the assessee. On the contrary and unfortunately, it was an attempt on the part of the ITO to harass the assessee by deciding various years in a haste and then to create huge demands which was avoidable without any loss to the revenue because those orders were not getting barred by limitation. It is under this background the assessee had to make request seeking time but in any case finally, as the ITO has also agreed at pg-7, that a letter dated 25.01.2017. (PB-130) was filed on 13.02.2017 along with the various certificates / Form 27BA as prescribed in first proviso of S.206C(6A). Hence such a discussion was irrelevant and in any case was without judiciously appreciating the facts.

Lastly, all such certificates were certified in same manner and method as was done in the F. Y. 2007-08 (A. Y. 2008-09) which has already decided by the Id. Predecessor as submitted in para-3. Therefore, there is no substance in these allegations and hence have to be ignored altogether.

8. The Impugned order was passed without having jurisdiction: It is submitted that the jurisdiction over the assessee under TAN as per Section 124(1) rested with the ITO TDS, Kota with whom the TDS returned were being regularly filed by the assessee. This fact is evident from the e-filing website of the income tax department which also shows the ITO(TDS), Kota having territorial jurisdiction over Tonk, District wherein the assessee situated.

But surprisingly, the impugned orders for the AY 2009-10 to AY 2015-16 were passed by the present ITO TDS-3, Jaipur on 22.12.2016 and 06.03.2017 is lacking jurisdiction and hence void ab initio and liable to be quashed. Kindly refer State of Gujarat v. Rajesh Kumar ChianLal AIR 1996 P.2664 Raza Textiles

Ltd. v. ITO 87 ITR 539 (S.C.), Choubey Jagdish Prasad v. Gaya Pal Chaturvedi AIR 1959 492 P. Das Muni Reddy v. Appa RITO AIR 1974 208 Sant Baba Mphan Singh v. CIT 90 ITR 197 77 Taxman 265 - Sitaram Rathore vs. CIT

Hence the impugned demand so raised kindly be quashed in full or in the alternate the benefit of the proviso to S.206C(6A) be given."

6. The Id. CIT(A) after considering the findings of the Assessing officer and the submission so filed by the assessee and other material on record has recorded his finding which are contained at Para 5.3 of his order and we deem it appropriate to reproduce the same in *verbatim* as under:

"5.3 I have carefully considered the rival contentions raised by the parties. The ITO contended that the provision of TCS are not similar to TDS provisions and therefore, the decision in Hindustan Coca Cola (Supra) should not be applied in this case. Though he agreed that the object of deduction/ collection of TDS/ TCS is the same but the liability imposed upon the assessee under TCS provisions u/s 206C is far different from the liability imposed under the TDS provisions u/s 201. In his view, under TCS, the assessee is not deemed to be the assessee in default but is made liable to pay TCS amount and the entire liability in respect of TCS is fastened upon him irrespective of the fact whether he has collected the TCS or not which is in contrast with the provisions of S.201(1).

The AO admitted that the very object of the provisions relating to TDS and TCS are the same. These provisions falls under the Chapter-XVII and provide a method of Collection and Recovery of tax at source. The object behind the deduction/ collection of TDS/ TCS is the same i.e. to ensure the advance recovery of the taxes from the concerned payer/seller to be credited to the account of the concerned recipient/buyer. The non-compliance of the provisions i.e. non-deduction/non-collection, in both the

cases, make the person responsible, liable to pay the amount of TDS/TCS in one way or the other. Whereas in the case of TCS, such demand is created u/s 206C(6), in the case of TDS, such demand is created u/s 201(1) and is recovered in both the cases from the person responsible unless he satisfies the conditions of exemptions provided there under. Similarly the interest for the delayed collection and deposit of TDS/TCS has also been provided u/s 201(1A) & 206C(7) of the act respectively. Both the provisions lose the rigor and allow exemption from the collection and deposit of TDS/TCS in as much as the first Proviso to S.206C(6A) provides that by filing the declarations and the certification in the prescribed form 27BA. Similarly, first Proviso to S.201(1) provides such immunity on filing of declarations and certification in prescribed form. Further the use of the word 'shall' u/s 206C(6) in contrast of S.201(1) does not make much difference in as much as the responsibility of making TDS/TCS is mandatory under both the provisions. Also further differentiation sought by the AO that in case of TDS, the subjected amount becomes the receipt in the hands of the recipient whereas in the case of the TCS, the subject amount of sale become the expenditure in the hands of the buyer, is not a material difference as such. Therefore, it is held that there is no substantive difference at all between the provisions relating to TDS or TCS as contented by the AO for the above reasons. Therefore, her further contentions of the non-applicability of decision of Hindustan Coca Cola (supra) is hereby rejected.

Having held that there is no material difference between the provision of TCS and TDS, I now proceed to considered the facts of the case, submission of the appellant filed time to time, finding recorded in the order and the contentions raised by the AO in the remand report. Before that, I may clarify that there is no dispute on the application of S. 206C relating to provisions of tax collection at source, so far as the sales made by the

assessee of Rs.26 Crore (approx.) of tendu patta to different buyer, is concerned. Though in the impugned order the AO TDS has mentioned the figure of the sales of Rs. 25,58,31,594/- However, the Id. AR pointed out in its submission that the correct figure otherwise is Rs. 27,19,31,589/- which fact, is not disputed by the AO.

Based on the copies of the certificates by the chartered accountant and the declarations by the partner of the appellant firm in the prescribed form 27BA copies of the acknowledgements of filing of return of income/return filing details as also copies taken from the official website, the following position emerges:

M/s. Eid Mohammad Nizamuddin, Tonk PAN : AAIFI4581L

Chart of Year-wise Sales of Tendu-Leaves & Declaration of Income by the buyers

<i>S.No.</i>	<i>Name of Buyer</i>	<i>PAN</i>	<i>Amount in F.Y. 2012-13</i>	<i>Remarks</i>
<i>A</i>	<i>Cases where Declaration & Certificate in form 27BA and Return of Income filed.</i>			
<i>1</i>	<i>M/s. Mangalore Ganesh Beedi Works Mysore (Karnataka)</i>	<i>AAAAM1342G</i>	<i>68421238</i>	<i>ROI filed enclosed</i>
<i>2</i>	<i>M/s. Guj arath Tobacco Company Mysore (Karnataka)</i>	<i>AFJPP1330G</i>	<i>1588890</i>	<i>ROI filed enclosed</i>
<i>3</i>	<i>M/s. Pannalal Premrai Khatri Sawai Modhopur(Raj.)</i>	<i>AADFP3174F</i>	<i>4538765</i>	<i>ROI filed enclosed</i>
<i>4</i>	<i>M/s. Anand Tobacco Products Mangalore (Karnataka)</i>	<i>AAFFA4744G</i>	<i>967200</i>	<i>ROI filed enclosed</i>
<i>5</i>	<i>M/s. Prakash Bidies Limited Mangalore (Karnataka)</i>	<i>AABCP9885E</i>	<i>9503876</i>	<i>ROI filed enclosed</i>
<i>6</i>	<i>M/s. P& J Tobacco Products Company Gopal Nagar Distt. Murs</i>	<i>AACFP2000R</i>	<i>3571350</i>	<i>ROI filed enclosed</i>
<i>7</i>	<i>M/s. SJ & SP Family Trust Jagtial Distt. Karimnagar (A.P.)</i>	<i>AAATS5877R</i>	<i>44164013</i>	<i>ROI filed enclosed</i>

8	M/s. JP Tobacco Products Pvt. Ltd. Damoh (M.P.)	AAACJ7141G	11591849	ROI filed enclosed
9	Parbhudas Kishordas Tobacco Products PVT. Ltd. Nizamabad	AABCP1495Q	10233471	ROI filed enclosed
10	Parbhudas Kishordas Tobacco Products PVT. Ltd. Damoh (MP,)	AABCP1495Q	32213394	ROI filed enclosed
11	M/s. Hyderabad Bidi Manufactures Hyderabad	AABFH1252J	6050190	ROI filed enclosed
12	M/s. Arshad & Company Hyderabad	AAFFA0570N	2355870	ROI filed enclosed
13	M/s Shaz Enterprises Hyderabad	AJBPK1293R	4448515	ROI filed enclosed
14	M/s. Char Bhai Bidi Works Hyderabad	AABFC0789P	56132915	ROI filed enclosed
15	M/s Shaheen Traders Mysore (Karnataka)	ADSPB5725E	920315	ROI filed enclosed
16	M/s. Star Traders Tanda (U p)	ACCPS9843D	1562616	ROI filed enclosed
Total (A)			Rs. 25,82,64,467/-	
B. Declaration in Form 27BA available but Return of Income not filed(only AO details given.				
17	M/s. M.P. Traders Bangalore (Karnataka)	AFLPP4547H	1194765	A chart showing ROI filling details & copy of website filed.

18	<i>M/s. S.M. Traders Tumkur (Karnataka)</i>	<i>ABCPY5783B</i>	<i>914625</i>	<i>A chart showing ROI filling details & copy of website filed.</i>
19	<i>M/s. Babu Bhai Rashid Bhai Karauli (Rajasthan)</i>	<i>ACAPA0895P</i>	<i>2390012</i>	<i>A chart showing ROI filling details & of website filed.</i>
20	<i>M/s Shivam Trading Company Amroha (U.P.)</i>	<i>CVKPK2262H</i>	<i>1115200</i>	<i>A chart showing ROI filling details & copy of website filed.</i>
21	<i>M/s Mehboob Bidi Factory Amroha J.P. Nagar(U.P.)</i>	<i>AAWFM0254A</i>	<i>5665360</i>	<i>A chart showing ROI filling details & copy of website filed.</i>
22	<i>M/s Hariom Traders Bhiwandi (Mumbai)</i>	<i>AGCPY4276C</i>	<i>162142</i>	<i>A chart showing ROI filling details & copy of</i>
23	<i>M/s. Shankara Traders Amroha (U.P.)</i>	<i>AGDPA5730H</i>	<i>622890</i>	<i>A chart showing ROI filling details &</i>

24	<i>M/s Afrin Traders Beedi Merchants Sira (Karnataka)</i>	<i>ALIPM9963H</i>	<i>1078688</i>	<i>A chart showing ROI filing details &</i>
25	<i>J.G. & Sons Kourtla</i>	<i>ACGPL9235D</i>	<i>346080</i>	<i>A chart showing ROI filing details &</i>
	<i>Total B</i>		<i>Rs. 1,34,89,762/-</i>	
<i>C</i>	<i>Cases where Certificate / Return of Income not filed</i>			
26.	<i>Ramesh S/o Nathu MP</i>		<i>1,77,360</i>	<i>Certificate available but return not filed</i>
	<i>Total C</i>		<i>Rs. 1,77,360/-</i>	
	<i>GRAND TOTAL</i>		<i>Rs.27,19,31,589/-</i>	

It is evident from the table above that the assessee in the case listed at 1 to 16 has filed all the details like declaration, certificate and return of income. Therefore this benefit as per the ratio laid down in Hindustan Coca Cola (supra) could be given to the assessee. Thus the appellant is entitled to the benefit to the extent of Rs. 25,82,64,467/- and no TCS can be recovered on this amount.

In nine cases at serial no. 17 to 25 the assessee has filed the certificate in form 27BA but return of income were not furnished. However evidence of filing of return through website was filed.

Accordingly the AO is directed to allow the benefit of Rs. 1,34,89,762/- as per the ratio laid down by Hon'ble Apex Court in Hindustan Coca Cola (supra) only after making verification of the return of

income filed by the respective parties case the appellant failed to do so, the liability of TCS is on the appellant.

Further in case of party at serial no. 26 the assessee neither filed any declaration & certificate nor any return of Income. Therefore, the assessee cannot be allowed the benefit of the decision Hindustan Coca Cola (supra) in these cases. The demand of TCS and the interest thereon, raised by the ITO to the extent of Rs.1,77,360/- is upheld being justified.

So far as the charging of interest u/s 206C(7) is concerned, the AO is directed to calculate the interest for period of starting from the due date of deposit of TCS after collection to the date of filing of the return by respective parties. Accordingly this ground is partly allowed."

7. Against the aforesaid findings of the Id CIT(A), both the parties are in appeal before us.

8. Firstly, we take up the grounds of assessee's appeal. In Ground no. 1, the assessee has challenged the order passed by the Assessing officer for want of requisite jurisdiction.

9. In this regard, the Id AR submitted that the assessee firm has been allotted TAN no. JDHI01315G and the said TAN comes under the territorial jurisdiction of ITO (TDS), Kota bearing code no. RJN-WT-850-3 as per Section 124(1) with whom the TDS returns were being regularly filed. However, the impugned survey u/s 133A(2A) was conducted on 23.03.2015 by the ITO, TDS-3, Jaipur and thereafter impugned order for the AY 2013-14 was passed by the ITO TDS-3, Jaipur without having valid jurisdiction.

10. It was submitted that the said ground was also taken before the Id CIT(A), However, it appears that this ground has escaped his attention and remain to be decided and therefore, this issue may be restored to the file of Id CIT(A) to be decided after providing opportunity to the assessee. Further, the

Id AR reiterated the submissions made before the Id. CIT(A) which read as under:

“The Impugned order was passed without having jurisdiction: It is submitted that the jurisdiction over the assessee under TAN as per Section 124(1) rested with the ITO TDS, Kota with whom the TDS returned were being regularly filed by the assessee. This fact is evident from the e-filing website of the income tax department which also shows the ITO(TDS), Kota having territorial jurisdiction over Tonk, District wherein the assessee situated.

But surprisingly, the impugned orders for the AY 2009-10 to AY 2015-16 were passed by the present ITO TDS-3, Jaipur on 22.12.2016 and 06.03.2017 is lacking jurisdiction and hence void ab initio and liable to be quashed. Kindly refer State of Gujarat v. Rajesh Kumar ChianLal AIR 1996 P. 2664 Raza Textiles Ltd. v. ITO 87 ITR 539 (S.C.), Choubey Jagdish Prasad v. Gaya Pal Chaturvedi AIR 1959 492 P. Das Muni Reddy v. Apparito AIR 1974 208 Sant Baba Mohan Singh v. CIT 90 ITR 197 77 Taxman 265 – Sitaram Rathore vs. CIT

Hence the impugned demand so raised kindly be quashed in full or in the alternate the benefit of the proviso to S.206C (6A) be given.”

11. Per contra, the Id DR drawn our reference to the order of the Id CIT(A) and submitted that the ground of appeal though taken by the assessee firm before the Id CIT(A), however, since the same was not pressed during the course of hearing, the ground was not allowed and dismissed by the Id CIT(A).

12. We have heard the rival contentions and perused the material available on record. We find that the assessee has raised a ground of appeal (ground no. 1) before the Id CIT(A) and challenged the order passed u/s 206C(6) r/w 206C(7) dated 6.03.2017 for want of requisite jurisdiction with ITO Jaipur and thereafter, in ground no. 2, has challenged the order so passed by the ITO Jaipur as barred by limitation. The Id CIT(A) while referring to both these grounds of appeal has apparently read and understood both these grounds as relating to limitation as apparent from reading of para 4 of his order and thereafter, in para 4.1, has held that these grounds were not pressed by the Id

AR of the appellant and therefore, these grounds are not allowed. During the course of hearing, the Id AR stated at the Bar that only ground relating to limitation was not pressed before the Id CIT(A). We therefore find that the ground relating to challenging the order passed by the Assessing officer for want of jurisdiction was taken before the Id CIT(A), however, it appears that the Id CIT(A) has wrongly read the ground relating to jurisdiction and limitation together and has dismissed both these grounds as not pressed. Given that this ground was taken by the assessee before the Id CIT(A) and not adjudicated upon, the matter deserve to be set-aside to the file of the Id CIT(A) to adjudicate the said ground of appeal after providing reasonable opportunity to the assessee. In the result, the ground no. 1 is allowed for statistical purposes.

13. In Ground no. 2, the assessee has challenged the order passed by the Assessing officer as barred by limitation. During the course of hearing, the same was not pressed by the Id AR on behalf of the assessee, hence, the same is dismissed as not pressed.

14. In ground no. 3.1, the assessee has challenged the confirmation of demand towards TCS amounting to Rs. 1,77,360/-.

15. In this regard, the Id AR submitted that the total amount of sale of Tendu leaves worth Rs.27,19,31,589/- consisted of different categories (A, B & C) of buyers (categorized based on documentation on record) which have been examined by the CIT(A) as stated at pg 14 to 16 of his order and accordingly, feeling satisfied with the contentions of the assessee and submissions/documentation in support thereof, held that the assessee was not in default to the extent of the sales totaling to Rs.25,82,64,467/- and Rs.1,34,89,762/- (as per list A & B). However, with regard to the third type of categories (list C) for the cases listed from S.No. 26, showing sales of Rs.1,77,360/-, the Id. CIT(A) held that the benefit of the decision of the

Hon'ble Supreme Court in case of Hindustan Coca Cola could not be applied in this case and held as under:

"Further in case of party at serial no. 26 the assessee neither filed any declaration & certificate nor any return of income. Therefore, the assessee cannot be allowed the benefit of the decision Hindustan Coca Cola (supra) in these cases. The demand of TCS and the interest thereon, raised by the ITO to the extent of Rs.1,77,360/- is upheld being justified."

Accordingly, he confirmed the order of the Id. AO to that extent. However, while concluding, he observed as under:

".....The demand of TCS and the interest thereon, raised by the ITO to the extent of Rs.1,77,360/- is upheld being justified."

16. In this regard, it was submitted by the Id AR that the demand of TCS u/s 206C(6) and demand of consequent interest thereon u/s 206C(7) can only be the demand of TCS and not of the entire sale. It appears that the Id. CIT(A) has perhaps mistakenly understood the total amount of the sale of Rs.1,77,360/- to be the amount of the TCS whereas the amount of TCS is only @ 5% which comes to Rs.10,047/- only (i.e. @ 5.665% of Rs.1,77,360/-) and not the entire sales amount. Though this appears only to be a typographical or clerical mistake yet however, since this formed part of the order of the appellate authority which has not been rectified yet, hence, this ground has been taken and prayed for appropriate relief.

17. The Id DR is heard who has relied on the order of the lower authorities and submitted that the Id CIT(A) has rightly upheld the levy of TCS in absence of any documentation, however, as far as quantum of TCS is concerned, he has no objection where the matter is set-aside for necessary verification.

18. We have heard the rival contentions and pursued the material available on record. Prima facie, looking at the other entries where the Id CIT(A) has

allowed the relief to the assessee firm, we find merit in the contention of the Id AR that the amount of Rs 1,77,360 represents the sale amount on which the TCS is to be determined and it doesn't represent the amount of TCS and therefore, the liability of the assessee is only to the extent of TCS on such sales and not on the whole sale amount. The matter is accordingly set-aside to the file of AO to verify the same and determine the quantum of TCS and consequent interest thereon which is payable by the assessee in relation to the impugned transaction. The ground of appeal is thus allowed for statistical purposes.

19. In ground no. 3.2, the assessee has challenged the findings of the Id CIT(A) relating to charging of interest u/s 206C(7) of the Act.

20. During the course of hearing, the Id AR submitted that the Assessing officer had charged interest u/s 206C(7) of the IT Act, 1961 on the entire amount of Short / Non Collection of tax at source u/s 206C(6) alleging that assessee has committed a clear default of non-collection of TCS w.r.t. sale amount of Rs.25,58,31,594/- (correct Sale amount is Rs.27,19,31,589/-) and in the first appeal, the Id. CIT(A) has directed the AO as under:

"So far as the charging of interest u/s 206C(7) is concerned, the AO is directed to calculate the interest for period of starting from the due date of deposit of TCS after collection to the date of filing of the return by respective parties. Accordingly, this ground is partly allowed."

21. In this regard, it was submitted by the Id AR that no interest is leviable and permissible to be charged in a case where buyers have already paid advance taxes and having refund. It was submitted that there may be situations where the amount of prepaid taxes (i.e. by way of TDS/ TCS or Advance Tax) were paid by the buyer towards his Income Tax liability even before the date on which such amount of TCS became collectible by the assessee seller, in such a case no interest can be charged because the amount

of tax already stands paid in the exchequer by the buyer himself. In some of the cases, such payment of prepaid taxes may be by way of prepayment of installments of Advance Tax on different dates during the relevant Financial Year. Hence depending upon the due date of the collection of TCS by the assessee seller vis a vis the different dates of prepayment of taxes (as stated above), interest has to be computed but it is not that the interest becomes chargeable on the entire amount for the entire period by taking a literal interpretation of the proviso to Section 201(1A). Here, in various cases, the buyers have claimed refund.

22. In support of his contentions, the Id AR has placed reliance on the Coordinate Bench decision in case of Chandmal Sancheti, Jaipur vs. ITO (2016) 181 TTJ 0906 (Jp Trib.). It was submitted that the principle propounded in this decision has attained finality for want of further challenge before the Hon'ble Rajasthan High Court in as much as no appeal has been filed by the Revenue. Further, reliance was placed on the decision of Hon'ble Karnataka High Court in the case of CIT (TDS) & Anr v/s Bharat Hotels Limited (2016) 288 CTR 0682 (Kar) and Solar Automobiles Pvt Ltd vs DCIT (2011) 245 CTR 475 (Kar).

23. Per contra, the Id DR is heard who drawn our reference to the proviso to section 206C(7) inserted by the Finance Act 2012 with effect from 1.07.2012 which provides that the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer. He accordingly relied on the findings of the Id CIT(A) and submitted that there is no infirmity in the said findings and the same should be confirmed.

24. We have heard the rival contentions and pursued the material available on record. The relevant provisions of section 206C(7) which are under consideration reads as under:

"(7) Without prejudice to the provisions of sub-section (6), if the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of one per cent per month or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid and such interest shall be paid before furnishing the quarterly statement for each quarter in accordance with the provisions of sub-section (3):

Provided that in case any person responsible for collecting tax in accordance with the provisions of this section, fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee."

25. A bare reading of the aforesaid provisions provides that where the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it, he shall be liable to pay simple interest at the prescribed rate from the date on which such tax was collectible to the date on which the tax was actually paid. Further, a proviso has been inserted by the Finance Act, 2012 with effect from 1.07.2012 which provides that where such person is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer.

26. The first proviso of sub-section (6A) has simultaneously been introduced in the statute by the Finance Act 2012 with effect from 1.07.2012 which reads as under:

"(6A) If any person responsible for collecting tax in accordance with the provisions of this section does not collect the whole or any part of the tax or after collecting, fails to pay the tax as required by or under this Act,

he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax:

Provided that any person responsible for collecting tax in accordance with the provisions of this section, who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

- (i) has furnished his return of income under section 139;*
- (ii) has taken into account such amount for computing income in such return of income; and*
- (iii) has paid the tax due on the income declared by him in such return of income,*

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed”

27. We now refer to the findings of the Id CIT(A) which read as under:

"It is evident from the table above that the assessee in the case listed at 1 to 16 has filed all the details like declaration, certificate and return of income. Therefore this benefit as per the ratio laid down in Hindustan Coca Cola (supra) could be given to the assessee. Thus the appellant is entitled to the benefit to the extent of Rs. 25,82,64,467/- and no TCS can be recovered on this amount.

In nine cases at serial no. 17 to 25 the assessee has filed the certificate in form 27BA but return of income were not furnished. However evidence of filing of return through website was filed.

Accordingly the AO is directed to allow the benefit of Rs. 1,34,89,762/-as per the ratio laid down by Hon'ble Apex Court in Hindustan Coca Cola (supra) only after making verification of the return of income filed by the respective parties case the appellant failed to do so, the liability of TCS is on the appellant.

Further in case of party at serial no. 26 the assessee neither filed any declaration & certificate nor any return of Income. Therefore, the assessee cannot be allowed the benefit of the decision Hindustan Coca Cola (supra) in these cases. The demand of TCS and the interest thereon, raised by the ITO to the extent of Rs.1,77,360/- is upheld being justified.

So far as the charging of interest u/s 206C(7) is concerned, the AO is directed to calculate the interest for period of starting from the due date of deposit of TCS after collection to the date of filing of the return by respective parties. Accordingly this ground is partly allowed."

28. We therefore find that the assessee firm has been allowed the benefit to the extent of sales of Rs 25,82,64,467/- in respect of cases listed at 1 to 16 where the buyers have filed their respective return of income wherein it has been directed by the Id CIT(A) that no TCS can be recovered on this amount following the ratio laid down in Hindustan Coca Cola. Similarly, following the said legal proposition, in respect of transactions listed at item no. 17 to 25, the Id CIT(A) has directed the AO to allow the benefit of Rs 1,34,89,762/- only after making verification of the return of income filed by the respective buyers as the assessee has filed the certificate in Form no. 27BA but copy of return of income were not furnished by the assessee though evidence of filing of return through website was filed. However, as far as charging of interest is concerned, in respect of all these transactions listed at 1-25, the Id CIT(A) has directed to calculate the interest for period starting from the due date of deposit of TCS after collection to the date of filing of the return by respective parties. We therefore find that the said direction of the Id CIT(A) is in consonance with the proviso to section 206C(7) wherein it has been provided that the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by the respective buyers. The said proviso has however not envisaged the situation, as contended by the Id AR, where the buyers have already paid the taxes by

advance tax even before the date on which TCS becomes collectible, interest should not be levied. Given that the said proviso has been inserted with effect from 1.07.2012, the interest for the period prior to 1.07.2012 shall not be leviable. Therefore, going by the plain language as so provided in the proviso to section 206C(7) as it stood today and applicable in the instant case, the assessee firm shall be liable to pay interest from the date on which such tax was collectible to the date of furnishing of return of income by the respective buyers excluding the period prior to 1.07.2012 in respect of which no interest shall be leviable. The decision of the Coordinate Bench in case of Chandmal Sancheti (supra), the decision of the Hon'ble Karnataka Court in case of Bharat Hotels (supra) and Solar Automobiles (supra) were rendered for the period prior to the amendment brought in by the Finance Act, 2012 whereby proviso to section 206C(7) has been inserted with effect from 1.7.2012, have not considered the said provisions as amended and are therefore, distinguishable and doesn't support the case of the assessee firm. Therefore, the findings of the Id CIT(A) which are in consonance with the proviso to section 206C(7) are hereby confirmed subject to the modification that no interest shall be leviable for the period prior to 1.07.2012 and to that extent, the assessee shall be eligible for relief. The ground of appeal is thus partly allowed.

29. In Ground no. 4, the assessee firm has challenged the action of Id CIT(A) in not considering that the case fall under u/s 206C(1A) r/w Rule 37C in as much as the entire subjected sales of Tendu leaves was made to the ultimate consumers for use in manufacturing, processing or producing of Beedies and hence the provision of Section 206C was not applicable and have been wrongly invoked by the AO.

30. In this regard, it was submitted that the provision contained u/s 206C (1A), in a mandatory term, provides that the assessee seller will be under no obligation to collect tax at source overriding the provisions of S.206C(1).

Though the substantive provision of law nowhere provides any time limit up to which the seller should have collected the declaration or the buyer should have furnished the same to the seller. However, no collection of tax shall be made in the case of a buyer where the goods (subjected to TCS) are to be utilized for the purposes of manufacturing, processing or producing articles and things or for the purposes of generation of power and not for trading purposes.

31. It was submitted that the assessee firm has obtained declarations in Form 27C furnished by few buyers to establish that the assessee seller is not at all liable to collect TCS from the concerned buyer in as much as the subjected sales was made to the ultimate consumers for use in manufacturing, processing or producing of Beedies and hence the provision of S.206C was not applicable. It was submitted that these declarations in Form No.27C were furnished by the few buyers in the recent past only and hence, the assessee firm has furnished the same along with application under Rule 29 filed on 04.06.2018 though strictly and legally speaking, such declaration are not additional evidence in nature being the later developments.

32. Further, our reference was drawn to the provision of Sec. 206C (1A) which reads as under:

"(1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes."

33. It was further submitted that Rule 37C however provides that such declaration is to be filed on or before 7 days of the next following month in which the declaration is furnished to the seller. In the cases of the delayed filing however, no consequence has been provided neither under Sec. 206C (1A) nor under the Rule 37C. It is submitted that filing of such declaration is a mere procedural requirement and therefore even if, such declaration are furnished at the appellate stage, the same deserves acceptance. This contention is also for the reason that the appeal is the continuation of the assessment proceedings only and therefore, even if a plea taken before the appellate court or the declarations are filed, the Courts may admit the same in the larger interest of justice.

34. It was submitted that under similar circumstances, the Tribunal in the case of Chandmal Sancheti vs. ITO ,TDS-2, Jaipur [2016] 181 TTJ 0906 have remitted the matter back to the ITO to consider the declaration filed in Form 27C belatedly by the assessee. Reliance was also placed on the Tribunal decision in case of Karnataka Forest Development Corporation Ltd. Vs. ITO, TDS (2015) ITL 1007 (Bang.) (Trib.) wherein the Tribunal has remanded the matter back to the AO for proper verification and thereafter re-adjudication of the issues involved in accordance with law. Further, reliance was placed on the Hon'ble Gujarat High Court decision in case of CIT (TDS) Vs. Siyaram Metal Udyog (P.) Ltd. 2016 ITL 4028 (Guj.) and Hon'ble Madras High Court decision in case of CIT vs. Adisankara Spinning Mills (P.) Ltd. 226 Taxman 44 (Mad.)

35. It was further submitted that in the instant case, although a ground was taken before the Id. CIT (A) however declarations could not be filed for the genuine difficulties and the existence of sufficient cause has been explained in the application filed by the assessee under Rule 29. It was submitted that the Tribunal which is meant to provide substantial justice should not indulge in technicality of law and the procedures and it should entertain an issue not agitated before AO or CIT (A), if it is a question of law or if facts are already

on records. In case the facts need ascertainment, the Tribunal should not hesitate in remanding to the lower authorities to decide in accordance with law and after opportunity to the other side. In *Indo Java & Co. vs. IAC* (1989) 30 ITD 161 (Delhi)(SB), the Special Bench has held that point which can be agitated in appeal before Tribunal by an appellant may also include points impinge on computation of income as shown by the assessee himself by mistake or otherwise and even agitated before ITO or ACC. In support, reliance was also placed on the decision of Hon'ble Madhya Pradesh High Court in case of *CIT vs. Kum. Satya Setia* (1983) 143 ITR 0486 (MP) wherein it was held as under:

"Rule 29 is in pari materia with order 41, r. 27 of the CPC. It is within the discretion of the appellate authority to allow production of additional evidence if the said authority requires any document to enable it to pass orders or for any other substantial cause. Therefore, even if the assessee had failed to file the agreement before the ITO and the AAC, the Tribunal had the jurisdiction in the interest of justice to allow production of a crucial document. The Tribunal is the final fact- finding body under the scheme of the IT Act. Powers, therefore, have necessarily to be exercised by it for deciding the questions of fact and while exercising its powers, if the Tribunal is of opinion that additional evidence is material in the interest of justice for deciding the particular issue, its discretion cannot be interfered with unless it has been exercised on non-existing or imaginary grounds. Therefore, the Tribunal was correct in law in admitting fresh evidence in the form of the subsequent agreement even though this document was not produced before the lower authorities and in further holding that it did not appear to be a fabricated document. —Kali Charan Ram Chander vs. CIT (1978) 112 ITR 405 (Cal) : TC8R.1090 relied on; Ram Prasad Sharma vs. CIT (1979) 119 ITR 867 (All) : TC8R.1096 distinguished. (Paras 6 to 9)"

36. Further, reliance was placed on the Tribunal decision in case of Rajmoti Industries vs. ITO (1995) 52 ITD 0286 (Ahd) wherein it was held as under:

"The Tribunal, under the scheme of the IT Act, 1961, is a final fact-finding authority and in order to enable it to decide disputes brought before it by way of second appeal in a lawful, fair and judicious manner it has necessarily to look into and consider such evidence and other material having a nexus and bearing on the subject-matter of the appeal viz., the dispute involved. Even according to the provisions of r. 29 of the ITAT Rules, the Tribunal is empowered to receive and admit additional evidence for any other substantial cause. It is amply settled and clear that this Tribunal can admit additional evidence in terms of r. 29 if the receipt or admission of additional evidence is vital and essential for the purpose of consideration of the subject-matter of the appeal and arrive at a final and ultimate decision. The Tribunal, therefore, has also power to admit additional evidence in the interest of justice or if there exists substantial cause. The assessee having lost in first appeal and in order to get a fair deal and substantial justice from this Tribunal for deletion of the addition made by the Assessing Officer in respect of the loans and interest thereon has mustered relevant additional evidence and compiled it into two paper books. In order to do substantial justice to the appellant-assessee the additional evidence as compiled in the paper books has to be admitted in terms of r. 29 of the ITAT Rules and, therefore, it is admitted.—Pari Mangaldas Girdhardas vs. CIT 1977 CTR (Guj) 647 followed; K. Venkata Ramaiah vs. A. Sitarama Reddy AIR 1963 (SC) 1526, Kali Charan Ram Chander vs. CIT (1978) 112 ITR 405 (Cal), CIT vs. Kum. Satya Sethia (1983) 37 CTR (MP) 66 : (1983) 143 ITR 486 (MP), R.S.S. Shanmugham Pillai & Sons vs. CIT (1974) 95 ITR 101 (Mad)

and Anaikar Trades & Estates (P) Ltd. vs. CIT (1990) 82 CTR (Mad) 110 : (1990) 186 ITR 313 (Mad) relied on. (Paras 12, 15 & 18)."

37. It was further submitted that in the latter years as and when, declaration in Form 27C by the ultimate consumer – manufacturer was obtained, the same was filed in form 27C r/w Rule 37C r.w.s. 206C(1A) proviso which the Department has accepted and no demand has been raised. In support of the said contention, it was submitted that as desired and directed by the Bench during the course of hearing to submit the copies of declarations filed in some of the parties who are common with these years, copy of letters addressed to the Id CIT(TDS), Jaipur for F.Y. 2015-16, 2017-18 & 2018-19 (A.Y.2016-17, 2018-19 to 2019-20) along with declarations in Form 27C are filed and placed on record. It was submitted that no demand w.r.t. these parties has been raised by the Department and these are same parties with whom the transactions were undertaken during the impugned assessment years.

38. It was further submitted that even for earlier assessment years i.e, in A.Y. 2010-11 to 2012-13, similar fact pattern exist and the transactions were made with the same parties and the assessee had raised similar ground of appeal claiming the benefit of sec. 206C(1A) r/w rule 37C and declarations in Form 27C from the various buyers were submitted. However, given that the Id CIT(A) had quashed the orders passed u/s 206C(6)/(7) on ground of limitation, he did not decide the said ground of appeal.

39. It was further submitted that it is a consistent factual position and submission of the assessee right from the beginning when the statement of the partner of the assessee's firm was recorded during the TDS survey on 23.03.2015 and reproduced in the assessment orders passed u/s 206C(6)/(7) for all these years that sale of Tendu leaves have been made to the manufacturers of Beedies and although no declaration u/r 37C in form 27C was received from such buyers, however, the assessee had written/ requested

to the concerned buyers to send the declaration/certificates and the office of the ITO was also been duly informed on this subject along with the address of such buyers. It was accordingly submitted that the provisions of S. 206C (1A) are clearly attracted, declarations in Form 27C may be admitted as prayed in application filed under Rule 29 and the assessee firm may be granted the necessary relief and the matter may be remanded to the file of the AO for necessary verification.

40. The Id DR is heard who has submitted that the provisions of section 206C(1A) can be invoked only in a scenario where the declarations from the buyers have been submitted in the prescribed form and verified in the prescribed manner to the effect that the goods are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes. Drawing our reference to the findings of the AO, it was submitted by the Id DR that the Assessing Officer has clearly held that the assessee firm had failed to obtain the requisite forms in Form No. 27C from the buyers and submit the same to the Id. CIT(TDS) within the stipulated time. It was submitted that given that the assessee has not submitted the declarations in Form 27C either before the AO or even before the Id CIT(A), there is no infirmity in the order of the AO and Id CIT(A) in denying the same claim to the assessee. It was further submitted that the assessee's prayer under Rule 29 to admit such declarations in Form 27C therefore cannot be accepted at this stage as the same are in nature of additional evidence and the assessee has failed to show any reasonable cause which prevented him from obtaining such declarations in Form 27C for the instant year when the same were duly obtained for the earlier years as so claimed by it.

41. We have heard the rival contentions and pursued the material available on record. The provisions of section 206C(IA) which are under consideration reads as under:

"(1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes."

42. The Hon'ble Gujarat High Court had an occasion to examine the aforesaid provisions in case of Commissioner of Income-tax (TDS) vs Siyaram Metal Udyog (P.) Ltd (supra). In that case, the Assessing Officer had made additions on the ground that the respondent assessee had breached section 206C of the Income Tax Act, 1961 in case of sale of scrap, on the ground that the assessee had not submitted Form-27C comprising of the buyer's declaration to the Commissioner of Income-tax in time. The assessee on the other hand had contended that he was not a trader of scrap and therefore, the provisions of section 206C did not apply at all. The Assessing Officer turned down his contention and proceed to make the additions. Eventually, when the issue reached the Tribunal, the Tribunal relying on earlier decision in case of Bharti Metals held that the items in question were scrap. However, in view of the fact that the assessee had admittedly filed a declaration in form 27-C collected from the buyers and given that there was no dispute about the genuineness of the contents thereof ruled in favour of the assessee. In that factual background, the Hon'ble High Court has held as under:

"6. Section 206C of the Act pertains to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap etc. Sub-section 1 of section 206C provides that every person being a seller shall at the time of debiting of the amount payable by the buyer collect from the buyer of any of the goods specified in column (2) of the table, a sum

equal to the percentage specified in the corresponding entry of the table as income tax. Clause (aa) of the explanation to section 206C, inter alia, provides that buyer with respect to sub-section (1) means a person who obtains in sale by way of auction, tender or any other mode, goods of the nature specified in the table or the right to receive any such goods but does not include a buyer in the retail sale of such goods purchased by him for personal consumption.

7. In the context of this exclusion clause contained in explanation of the term 'buyer', sub-section (1A) of section 206C provides as under:—

"(1A) Notwithstanding anything contained in sub section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes."

8. Thus, in terms of the explanation clause (aa) any person who purchases the goods in retail sale for personal consumption would not be included within the definition of term 'buyer'. It is therefore, that under sub section (1A) of section 206C, calculation of tax under sub-section 1 would not be made, if the buyer furnishes to the person responsible for the tax a declaration in writing in prescribed form declaring that the goods in question are to be utilized for the purposes of manufacturing process or producing articles or things or for the purpose of generation of power and not for trading purposes. The declaration to be made in sub-section (1A) of section 206C thus would enable the Revenue authorities to, as and when the need so arises make proper verifications. This sub-

section itself does not provide for any time limit within which, such declaration is to be made. The time limit, of course, would be found in Rule 37C of Income Tax Rules, 1962. The main thrust of sub-section 1A of section 206C thus is to make a declaration as prescribed, upon which, the liability to collect tax at source under sub-section (1) would not apply. When there was no dispute about such a declaration being filed in a prescribed format and there was no dispute about the genuineness of such declaration, mere minor delay in filing the said declaration would not defeat the very claim. The Tribunal therefore, viewed such delay liberally and in essence held that there was substantial compliance with the requirement of filing the declaration.”

43. Subsequently, the Hon'ble Gujarat High Court had an occasion to examine the aforesaid provisions again in case of Commissioner of Income-tax (TDS) vs Chhaganbhai K Sanghani [2018] 94 taxmann.com 459 (Guj). In that case, the respondent-assessee was a dealer in scrap. During the period relevant to the assessment year 2011-12, he had sold scrap of Rs. 12.72 Crores on which he was required to collect tax at source in terms of Section 206C(1) of the Income-tax Act, 1961 unless the buyers had provided him necessary certificates referred to in sub-section (1A) thereof. Before Assessing Officer, the assessee produced no such certificates. The Assessing Officer therefore, in terms of sub-section (7) of Section 206C, levied tax and interest. In appeal before the Commissioner, assessee produced necessary certificates issued by the buyers. The Commissioner, however, ignored such certificates and confirmed the order of Assessing Officer, upon which, assessee approached the Tribunal. The Tribunal allowed assessee's appeal observing that the Revenue had no dispute with respect to genuineness or co-relation between the sale and purchases covered under such certificates. In that factual background, the Hon'ble High Court has held as under:

"4. Having heard learned advocates for the Revenue, we noticed that in terms of sub-section [1] Section 206C of the Act, every seller would have to collect tax at source at the time of sale of goods at the prescribed percentage and deposit the same with the Government revenue unless in terms of sub-section [1A] thereof, the buyer has furnished to such seller, declaration in writing in a prescribed form and fulfilled in prescribed manner that the goods are to be utilized for the purpose of manufacturing, processing or producing articles or things, or for the purpose of generation of power and not for trading purpose. Sub-section [1] of Section 206C is thus a substantive requirement of collection of tax at source and depositing of the same with the Revenue. Sub-section [1A] refers to a situation under which collection under sub-section [1] would not have to be made. These are substantive provisions. Requirements of sub-section [1A] are that the buyers should provide to the seller, a declaration in prescribed form, verified in the prescribed manner. Such prescriptions are to be found in Rule 37C of the Income-tax Rules, 1962. Sub-section (1) thereof provides that declaration under sub-section 206C shall be in form 27C and shall be verified in the manner indicated therein. Sub-rule [2] of Rule 37C requires that the declaration referred to in sub-section (1) shall be furnished in duplicate to the person responsible for collecting tax. Under sub-rule (3), such person would deliver to the Chief Commissioner or the Commissioner, one copy of such declaration on or before the seventh day of the month, next following the month in each declaration is issued.

5. Thus, Rule 37C in addition to prescribing the form for grant of declaration and the manner the same should be verified, impose two additional requirements viz., [i] that such declaration shall be furnished in duplicate to the person responsible for collecting the tax and that such person would deliver a copy thereof to the Commissioner within the time

prescribed. Sub-section [1] of Section 206C does not refer to any such time limit. Clearly therefore, the legislative intent was not to make this time limit mandatory or a pre-condition for availing the benefit of not deducting tax at the time of sale of goods aimed for specified purpose. This Court in case of CIT [TDS] v. Siyaram Metal Udyog (P.) Ltd. [2016] 71 taxmann.com 204/240 Taxman 578 [Gujarat] had dealt with somewhat similar situation, wherein following observations have been made ..”

44. The legal position which is thus laid down by the Courts as per the aforesaid decisions is that sub-section (1) of Section 206C is a substantive provision for collection of tax at source and depositing of the same with the Revenue. Sub-section (1A) is again a substantive provision which refers to a situation under which collection under sub-section (1) would not have to be made at first place. The requirements of sub-section (1A) are that the buyers should provide to the seller, a declaration in prescribed form, verified in the prescribed manner. The main thrust of sub-section (1A) of section 206C is thus to make a declaration as prescribed, upon which, the liability to collect tax at source under sub-section (1) would not apply. Sub-section (1A) of Section 206C does not refer to any time limits for furnishing such declarations and therefore, the legislative intent was not to make the time limit mandatory or a pre-condition for availing the benefit of not collecting tax at the time of sale of goods aimed for specified purposes. When there was no dispute about such a declaration being filed in a prescribed format and there was no dispute about the genuineness of such declaration and co-relation between the goods sold, the delay in filing such declaration should be construed liberally and would not defeat the very claim where there is a substantial compliance with the requirement of filing the declaration.

45. In the present case, we find that the assessee firm has made the said claim under section 206C(IA) right at the time of survey proceedings where

the statement of one of its partners was recorded on 23.03.2015 and again during the course of assessment proceedings stating that the sale of Tendu Leaves have been made to the persons/entities which are existing tax payers and who are engaged in manufacture of Beedies (refer response to question no. 8) though it was also submitted that the declarations in Form 27C have not been submitted but at the same time, the assessee has written and requested the buyers to whom the Tendu leaves have been sold to send the declaration in Form 27C and the office of the ITO also been duly informed on this subject along with the address of such buyers (refer response to question no. 9). It is also a fact that these declarations in Form 27C could not be submitted either before the AO or during the appellate proceedings before the Id CIT(A) and have now been submitted by the assessee firm before us in respect of 7 parties to whom the Tendu leaves have been sold during the year as per particulars below:

S.No.	Particulars	Amount (Rs.)	PB
1.	S.J. & S.P. Family Trust, Karimnagar (MP)	Rs.4,41,64,013/-	1-2
2.	JP Tobacco Products Pvt. Ltd., Damoh (MP)	Rs.1,15,91,849/-	3-4
3.	P & J Tobacco Products Company, Murshidabad (W.B.)	Rs.35,71,350/-	5-6
4.	Prabhudas Kishoredas Tobacco Products Pvt. Ltd., Nizamabad (A.P.)	Rs.1,02,33,471/-	7-8
5.	Prabhudas Kishoredas Tobacco Products Pvt. Ltd., Damoh (M.P.)	Rs.3,22,13,394/-	9-10

6.	Star Traders, tanda(U.P.)	Rs.15,62,616/-	11
7.	Mangalore Ganesh Beedi Works, Mysore(Kar)	Rs.6,84,21,238/-	12-13

On a prima facie perusal of these certificates, we find that all these parties are involved in manufacturing of Beedies and uses Tendu leaves for manufacturing such Beedies. The sales amount mentioned in these certificates matches with the sales amount as reflected and examined by the Id CIT(A) as apparent from findings in his order (para 5.3, page 14-15):

S.No.	Name of Buyer	PAN	Amount in F.Y. 2012-13	
A	<i>Cases where Declaration & Certificate in form 27BA and Return of Income filed.</i>			
1	<i>M/s. Mangalore Ganesh Beedi Works Mysore (Karnataka)</i>	<i>AAAAM1342G</i>	<i>68421238</i>	<i>ROI filed enclosed</i>
2	<i>M/s. Gujarath Tobacco Company Mysore (Karnataka)</i>	<i>AFJPP1330G</i>	<i>1588890</i>	<i>ROI filed enclosed</i>
3	<i>M/s. Pannalal Premrai Khatri Sawai Modhopur(Raj.)</i>	<i>AADFP3174F</i>	<i>4538765</i>	<i>ROI filed enclosed</i>
4	<i>M/s. Anand Tobacco Products Mangalore (Karnataka)</i>	<i>AAFFA4744G</i>	<i>967200</i>	<i>ROI filed enclosed</i>
5	<i>M/s. Prakash Bidies Limited Mangalore (Karnataka)</i>	<i>AABCP9885E</i>	<i>9503876</i>	<i>ROI filed enclosed</i>
6	<i>M/s. P & J Tobacco Products Company Gopal Nagar Distt. Murs</i>	<i>AACFP2000R</i>	<i>3571350</i>	<i>ROI filed enclosed</i>
7	<i>M/s. SJ & SP Family Trust Jagtial Distt. Karimnagar (A.P.)</i>	<i>AAATS5877R</i>	<i>44164013</i>	<i>ROI filed enclosed</i>
8	<i>M/s. JP Tobacco Products Pvt. Ltd. Damoh (M.P.)</i>	<i>AAACJ7141G</i>	<i>11591849</i>	<i>ROI filed enclosed</i>
9	<i>Parbhudas Kishordas Tobacco Products PVT. Ltd. Nizamabad</i>	<i>AABCP1495Q</i>	<i>10233471</i>	<i>ROI filed enclosed</i>

10	<i>Parbhudas Kishordas Tobacco Products PVT. Ltd. Damoh (MP,)</i>	<i>AABCP1495Q</i>	<i>2213394</i>	<i>ROI filed enclosed</i>
11	<i>M/s. Hyderabad Bidi Manufactures Hyderabad</i>	<i>AABFH1252J</i>	<i>6050190</i>	<i>ROI filed enclosed</i>
12	<i>M/s. Arshad & Company Hyderabad</i>	<i>AAFFA0570N</i>	<i>2355870</i>	<i>ROI filed enclosed</i>
13	<i>M/s Shaz Enterprises Hyderabad</i>	<i>AJBPK1293R</i>	<i>4448515</i>	<i>ROI filed enclosed</i>
14	<i>M/s. Char Bhai Bidi Works Hyderabad</i>	<i>AABFC0789P</i>	<i>56132915</i>	<i>ROI filed enclosed</i>
15	<i>M/s Shaheen Traders Mysore (Karnataka)</i>	<i>ADSPB5725E</i>	<i>920315</i>	<i>ROI filed enclosed</i>
16	<i>M/s. Star Traders Tanda (U p)</i>	<i>ACCPS9843D</i>	<i>1562616</i>	<i>ROI filed enclosed</i>
<i>Total (A)</i>			<i>Rs. 25,82,64,467/-</i>	

These are therefore existing income tax assesseees who have filed their respective return of income and have also filed their declaration in Form 27BA. The assessee has also submitted that similar declarations in Form 27C have been obtained from the same parties for the financial years 2015-16, 2017-18 and 2018-19 and submitted before the Id CIT(TDS) and which have been accepted and no demand has been raised by the Revenue. Therefore, in the instant case, we find that where similar declarations have been obtained from the same set of buyers, who are engaged in manufacturing of Beedies from the Tendu leaves so sold by the assessee, in the prescribed format and co-relation between the goods sold and reflected in such certificates having been established, the genuineness of such certificates prima facie doesn't seems to be in dispute. In our view, these certificates are vital and essential for the

consideration of the subject matter of appeal as these certificates support the contention of the assessee that the Tendu leaves have been sold to the manufacturers of Beedies and the case of the assessee falls under section 206C(1A) and not under section 206C(1). At the same time, given that these certificates have been filed for the first time during the present proceedings, in the interest of justice and fair play, these certificates needs to be verified by the Assessing officer and where on such verification, the Assessing officer is satisfied about the genuineness of such certificates, necessary relief u/s 206C(1A) can be granted and bestowed on the assessee firm.

46. Having said that, the fact remains that there has been a delay in obtaining such certificates which have now being filed for the first time by way of additional evidence under Rule 29. The question therefore is whether there is a reasonable cause for such delay in furnishing such certificates and the delay can be condoned and such certificates can be taken on record and admitted under Rule 29. In its application filed under Rule 29, the assessee has submitted that its tax affairs were handled by Shri Sitaram Agarwal, Advocate who was an aged person and was suffering from various ailments at the relevant point in time and subsequently, he had expired. The assessee firm acted on his advice and assistance from time to time. Late Shri Sitaram Agarwal was of the belief and understanding that collection of tax from the buyers would amount to double taxation as the assessee firm has already paid the taxes to the forest department while purchasing the Tendu leaves. Similarly, he was also of the belief and understanding that where the buyers have filed their respective return of income and paid taxes, following the proposition laid down by the Hon'ble Supreme Court in case of Hindustan Coca Cola Beverage (P) Ltd vs CIT (2007) 293 ITR 226, there remains nothing to be recovered by way of TCS. The assessee accordingly carried the same belief and understanding and acted ignorantly because of lack of proper guidance by

his advocate. Subsequently, when the Assessing officer took up the matter for scrutiny for A.Y 2008-09 and passed the order in month of March 2015, the assessee realized its mistake and started making efforts by way of reaching out to these buyers so that necessary declarations can be obtained and furnished before the Id CIT(TDS). However, the assessee again faced resistance from such buyers as they have already made the payment and doesn't want to be bothered with additional paperwork especially where no other supplier was asking for such declaration. However, with great efforts and persistence, these buyers have agreed to file their respective declarations and which have not being filed before us. We therefore find that the assessee has all along acted diligently and taken action basis the advice and assistance sought from its legal Counsel. It was initially advised not to collect TCS as taxes were already paid while procuring the Tendu leaves from the forest department and secondly, the buyers would be filing their return of income wherein they will be paying taxes and hence, there was no action required at its end. However, due to subsequent developments wherein the matter was taken up by the Revenue for the first time in the month of March 2015 and it came to know that such declarations are required to be obtained and filed with the Revenue authorities to absolve it from its TCS obligation, it started chasing these buyers and with lot of efforts, some of these buyers have finally submitted their declarations in the month of November 2017. We therefore find there is no culpable negligence or malafide on the part of the assessee in not obtaining these declarations and the assessee cannot be penalized where all along it acted diligently based on advice of his Counsel and subsequently, when the Revenue made it aware of its obligation to obtain such declarations, it made necessary efforts and finally got these declarations. As held by the Courts, where substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. The delay in filing such declarations being

a technical breach is thus condoned and the same are being admitted as there is substantial compliance with the requirement of filing the declarations. We find that similar view has been taken by the Coordinate Bench in case of Chandmal Sancheti vs ITO (supra) where it was held as under:

"10. We have heard the rival contentions of both the parties and perused the material available on the record. In our view, the appeal is continuation of the assessment proceedings and even if the declaration is filed by the assessee at the appellate stage in the prescribed format by disclosing all information as contemplated under Form 27 read with Rule 37 of the Rules, the benefit of declaration should be given to the assessee. The Id. Assessing Officer/CIT (A) should extend the benefit of declaration to the assessee. Rule 27 though is couched in the mandatory language by using the word "Shall" but the Rule 37 has not given the consequences of not filing the declaration within time. In our view, the consequences of failure to file the declaration in the requisite format as mentioned in the Rules should be provided by the IT Act and not by the Rules. The Rules, in our opinion, cannot extend or restrict the provisions of the Parent Act. The Rules are framed by the Legislature by exercising its power under the Act and therefore, if any penalty provision by way of the exclusion of declaration benefit and submission of the declaration belatedly should be provided by the Act and the rules. The provision of sub-section (1A) of section 206C, in our view, do not provide the consequences of the delayed filing of the declaration. Though, it provides that it is to be filed on or before the 7th day of the next following month in which declaration is furnished to him. Therefore, though there is delay in issuing the declaration by the buyer, the assessee cannot be penalized or deprived from the benefit of the declaration given by the buyer. The only duty cast upon the seller to submit declaration in the following month in which the declaration received. No time limit has been provided

by the statute on the buyer to submit the declaration in Form 27. In view thereof, the ground is required to be allowed. In the light of above, we deem it appropriate to remand the matter back to the file of the Assessing Officer with direction to verify whether the declaration has been filed by the assessee in the requisite form and what will be the effect of filing of this declaration on the calculation of the TCS u/s. 206 of the Act. It is, however, again clarified that the delay in filing the declaration shall not be a ground to the Assessing Officer to deny the benefit of the declaration to the assessee. In view thereof, the ground No. 2 of the appeal is allowed for the statistical purposes only".

47. Similarly, in case of Karnataka Forest Development Corporation Ltd. Vs. ITO, (supra), the Coordinate Bench has held as under:

"15. We find that section 206C (1A) reads as under:

"Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilized for the purposes of manufacturing, processing or producing articles or things [or for the purposes of generation of power] and not for trading purposes."

A perusal of the aforesaid provision shows that the assessee is not legally obliged to collect the TCS from a buyer who furnishes a declaration to the assessee to the effect that the purchases made by such buyer are to be utilized for the purposes of manufacturing, processing or producing articles or things or for purposes or generation of power and not for trading purposes. Thus, in a case where such a declaration is furnished by the buyer to the seller, the seller is not obliged to collect TCS from

such buyer and consequently the seller assessee cannot be treated as an assessee in default in respect of not collecting TCS from such buyer. We find that the Commissioner of Income Tax (Appeals) upheld the treatment of assessee as assessee in default in respect of those parties from whom the assessee already received declaration in Form 27C on the ground that such declaration was not furnished by the assessee to the Chief commissioner or Commissioner as required by the provisions of section 206C (1B) of the Act.

16. We find force in the contention of the assessee that once the declaration referred to in section 206C (1A) was received by the assessee, then thereafter the assessee could not legally collect the TCS from such buyers and consequently the assessee cannot be treated as an assessee in default for not collecting TCS from such buyers. The above view finds support from the decision of the Hon'ble Gujarat High Court in the case of CIT Vs. Valibhai Khanbhai Mankad (2013) 261 CTR 538 (Guj.) wherein it has been held that, "Once the conditions of section 194C (3) were satisfied, the liability of the payer to deduct tax at source would cease. The requirement of such payer to furnish details to the income tax authority in the prescribed form within prescribed time would arise later and any infraction in such a requirement would not make the requirement of deduction at source applicable."

Our view also finds support from the decision of Mumbai Bench of the Tribunal in the case of Karwat Steel Traders Vs. ITO (2013) 37 taxmann.com 190(Mum.) wherein it was held that, "Where declaration in Form 15G/15H were received by the person responsible to deduct tax, there was no liability on him to deduct TDS. Since separate provisions were prescribed on default for non-filing or delayed filing of Form 15G/15H to Commissioner, non-filing of such form would not invoke disallowance u/s. 40(a)(ia) of the Act."

We also find support from the decision of the Mumbai Bench of the Tribunal in the case of Vipin P. Mehta Vs. ITO (2011) 46 SOT 71 (Mum.) wherein it was held that, "Sub-section (1A) of section 197A of the Act merely requires the declaration to be filed by payee of interest and once it is filed, the payer of interest has no choice except to desist from deducting tax on interest."

17. In our considered view, the assessee cannot be treated as assessee in default for not collecting TCS from such buyers from whom the assessee received declaration as per provisions of section 206C(1A) of the Act.

18. We find that in the instant case, the assessee has not filed copy of declaration received by it u/s. 206C (1A) of the Act before the Assessing Officer for his verification. Therefore, in our considered view, it shall be just and fair to restore this part of the ground of appeal back to the file of Assessing Officer for proper verification and thereafter readjudication of the issue as per law in the light of the discussion made hereinabove after allowing the assessee a reasonable opportunity of hearing."

48. In light of aforesaid discussions, in the entirety of facts and circumstances of the case and respectfully following the decisions of Hon'ble Gujarat High Court (supra) as well as of the Coordinate Benches (supra), the matter is set-aside to the file of the Assessing officer for verification of declarations so filed by the assessee in Form 27C and examination of claim of the assessee u/s 206C(IA) afresh in accordance with law. The ground of appeal is thus allowed for statistical purposes.

49. In the result, the appeal of the assessee is disposed off in light of aforesaid directions.

ITA No. 778/JP/2018

50. We now refer to the Revenue's appeal. In Ground no. 1, the Revenue has challenged the action of Id. CIT(A) in allowing relief to the assessee firm on the basis of additional evidence without calling for remand report under Rule 46A and enquiry under Sec 250(4) of the Income Tax Act, 1961.

51. In this regard, the Id DR referred to the order of the Id CIT(A) and submitted that during the course of appellate proceedings, the assessee has submitted additional evidences in terms of certificates/declarations in Form 27BA and the same have been admitted by the Id CIT(A) without calling for a remand report from the AO.

52. Per contra, the Id AR at the outset raised a preliminary objection and submitted that the present appeal filed by the department is not maintainable in as much as on exactly identical facts and circumstances in the case of the same assessee i.e. in A.Y. 2008-09 also (as admitted by the ITO in Facts of the case), the assessee was held liable to TCS but the Id. CIT(A) classified the sale transactions of tendu patta/leaves in three categories and prepared three tables namely A,B & C and accordingly, complete relief with respect to the sale made under table A and B was granted and in few cases, the further relief was granted subject to verification by the AO. There also, in third category i.e. table C, the demand of TCS and interest thereon was confirmed vide her order dated 29.02.2016 in appeal no. 46/JPR/15-16. The Revenue however did not challenge the said order in further appeal and therefore, the finding of the CIT(A) has become final. It can't be denied that the assessee submitted the certificates and declarations in Form 27BA exactly in the same manner but the department did not feel aggrieved in that year. Therefore, now filing the appeal on the same issue when the legal and factual position is admittedly the same and without bringing out any material change in the facts of the legal position, the department cannot be permitted to agitate the same issue in later year. This contention is fully supported by the various decisions of the

Hon'ble Supreme Court and particularly in the case of Berger Paints India Ltd. v/s CIT (2004) 266 ITR 09 (SC).

53. On merits, the Id AR submitted that such a ground taken by the Revenue appears to be misconceived based on incorrect fact in as much as, before the Id. CIT(A) also, all those documents, which were filed before the ITO(TDS), Jaipur were only filed. No additional evidence was filed before the Id. CIT(A) nor so pointed out by the Revenue. All the papers or the information contained therein were already available before the ITO, which fact is notably admitted by ITO himself at Pg 7, 11 & 12 of the assessment order. Further, evidently, the Id. CIT(A) has made his own enquiry from the website of the department for his satisfaction, which he is empowered to make u/s 250(4) r.w. Rule 46(A)(4) without even confronting the ITO. Reliance was placed on the decision in case of DDIT v/s Thoresen Chartering Singapore (PTE) Ltd. (2008) 15 DTR 0395 (Mum) wherein it was held that "where assessee under direction of commissioner (Appeals) files additional evidence before him, there is no requirement for confronting assessing officer documents/evidence entertained by commissioner (Appeals) at first appellate stage under rule 46(a) (4)." Thus there was no requirement u/r 46A. It was further submitted that it only appears because of a typographical inadvertent mistake of the Id. CIT(A)-III that the word "remand report" was mentioned in his order. Therefore, the Id. CIT(A)-III has recently passed a corrigendum order (Pg 13 Line 27), copy of which has already been filed with the Registry and with the Id. D/R vide letter dated 05.09.2018, wherein the appellate order line no. 27g now reads "impugned order" in place of "remand report". In view of this corrigendum order, the ground taken by the Revenue has become infructuous and deserves to be dismissed as such and also on merits.

54. We have heard the rival contentions and pursued the material available on record and find that the certificates in Form 27BA from the Chartered accountant and related declarations from the buyers were filed before the

Assessing officer during the course of assessment proceedings as per submissions dated 13.02.2017 and the same have been taken on record and examined by the Assessing officer. It was observed by the Assessing Officer that he has gone through the documentation so submitted by the assessee firm and on perusal thereof, he noticed that complete information in the Form/certificate have not been given by the accountant/party as required by the legislature and most of the columns are either not filled up as required or simply mentioned as per details/enclosure. Moreover the accountant has signed the forms with conditional remarks "As certified by the buyer" whereas the forms should have been filled up and certified by the accountant itself on the basis of records. Further, some of the parties have not filed return on or before due dates prescribed u/s 139 of the I.T. Act, 1961. Further, on appeal, we find that these certificates in Form 27BA from the Chartered accountant and related declarations from the buyers have again been considered and examined by the Id CIT(A) and the observations of the AO regarding these certificates were not found tenable by the Id CIT(A) and basis his independent review and examination, the relief has been provided to the assessee firm as per his findings in para 5.3 of his order which we have reproduced supra. The Revenue has not pointed out what further evidence by way of additional evidence has been filed by the assessee during the appellate proceedings before the Id CIT(A). Therefore, the ground so taken by the Revenue is hereby dismissed.

55. In ground no. 2, the Revenue has challenged the action of the Id CIT(A) in deleting the demand raised by the AO without appreciating the fact that the assessee deductor has failed to make payment of interest u/s 206C(7) and not mentioning details of challans in the prescribed Form 27BA before submission with claim of relief in view of proviso to Sec. 206C read with Notification No.12/2016 dated 08.12.2016.

56. The Id DR is heard who has taken us through the certificates in Form 27BA filed by the assessee and submitted that while filing such certificates, the assessee has not paid interest u/s section 206C(7) and has not provided the challan details and which has not been appreciated by the Id CIT(A) and the relief has wrongly been allowed to the assessee.

57. Per contra, the Id AR submitted that the revenue's ground appears to be misconceived so far as it alleges the deficiency in Form 27BA in as much as to avail the benefit of the Proviso to S.206C(6A), there is no mandatory precondition to make the payment of interest u/s 206C(7) and hence the benefit cannot be denied. Moreover, giving the details of interest and details of challans in Form 27BA is optional. Thus, where the assessee has paid the interest, the relevant details may be filled in Form 27BA, but not required otherwise. What all is required is that the assessee should furnish a certificate from the CA in the prescribed form to the effect that they are (i) assessed to tax, (ii) have already furnished their return of income u/s 139(1) of the Act for the relevant year i.e. AY 2009-10 (iii) have already taken into account the cost of the purchases of tendu leaves made from the assessee firm while computing the total income for the above return of income and (iv) have already paid the income tax due on the incomes declared in the respective returns of income, which compliance the assessee has already made in this case as admitted by the ITO himself in principle and the Id. CIT(A) therefore rightly granted relief. It was further submitted that in view of the decision in the case of Hindustan Coca Cola Beverage (P) Ltd. v/s CIT (2007) 293 ITR 226 (SC), the assessee was required to establish that the payees (buyers) have already taken into account the subjected transactions while computing the total income and have already paid the tax due on the incomes so declared. It

is not disputed that the substantive compliance to this effect was already made by the assessee. Therefore, the assessee cannot be burdened with detailed minute technical requirement while filling Form 27BA and the ITO could not have found fault on this aspect. Though, notably in this case there is no such alleged deficiency either in the declaration or in the CA certificate.

58. We have heard the rival contentions and pursued the material available on record. The limited issue under consideration is whether at the time of submitting the certificates in Form 27BA as required under proviso to section 206C(6A), the assessee is required to deposit interest and give details of such interest deposit in such certificates. Firstly, on reading of provisions of proviso to section 206C(6A), we find that there is no requirement as such which has been specified in the statute. All it requires is that the accountant should certify as to whether the buyer has furnished his return of income, has taken into account such amount for computing income in such return of income and has paid taxes due on the income declared by him in such return of income or not. Further, on perusal of Form 27BA, we find that besides such certification, it contains a statement whether the assessee has to specify whether it has paid any interest u/s 206C(7) or not for non-collection or short collection of taxes. Thus, there is no mandatory requirement to pay any interest u/s 206C(7) as part of certification in Form 27BA and where the assessee has already paid, he has to specify that he has paid and where he has not paid, he has to specify accordingly. It is only an information seeking requirement and not a requirement in absence thereof which will make the certification in Form 27BA invalid where there is substantial compliance as to the mandatory requirements of certification. In the result, the ground so taken by the Revenue is dismissed.

59. In Ground no. 3, the Revenue has challenged the action of the Id CIT(A) where he has set aside the issue to the AO for verification and directed to allow relief on verification u/s 250(1) as per the ratio of judgment in the case of M/s Hindustan Coca Cola (P) Ltd. where the words "he may set aside" have been omitted after amendment w.e.f. 01.06.2001.

60. The Id DR referred to the findings of the Id CIT(A) at page 17 of his order where he has directed the AO to allow the benefit after making verification of return of income filed by the respective assesseees and submitted that the Id CIT(A) has erred by setting aside the matter to the AO where he has so such powers to set-aside the matter to the AO.

61. Per contra, the Id AR submitted that there appears to be a complete misreading of the order of the Id. CIT(A) in as much as he merely directed the AO to verify the fact of filing of ROI. He did not set aside the matter to be adjudicated afresh by the AO. Therefore, there was no setting aside by the CIT(A) to the AO as wrongly contented. Otherwise also, the issue involved is directly covered in as much as in AY 2008-09, the CIT(A) similarly directed the ITO to verify the fact of ROI filing, against which the department not having gone in appeal, such an issue has already become final. Notably, thereafter the ITO has given effect to the CIT(A)'s order vide his order dated 22.03.2019 u/s 206C/250. Hence, this ground of appeal deserves to be dismissed.

62. We have heard the rival contentions and pursued the material available on record. The relevant findings of the Id CIT(A) which are under dispute reads as under:

"Accordingly the AO is directed to allow the benefit of Rs. 1,34,89,762/-as per the ratio laid down by Hon'ble Apex Court in

Hindustan Coca Cola (supra) only after making verification of the return of income filed by the respective parties case the appellant failed to do so, the liability of TCS is on the appellant."

63. On perusal of the aforesaid findings, we find that the Id CIT(A) has clearly held and directed the AO to allow the benefit to the assessee in light of Hon'ble Supreme Court decision in case of Hindustan Coca Cola which he has discussed at length in the earlier part of the order and held that ratio of the said decision clearly applies in the instant case as there is no substantive difference in provisions relating to TDS and TCS. However, such direction was subject to verification by the AO as to the filing of the return of income by the respective buyers and where it was found by the AO that return of income has been filed, relief was directed to be allowed to the assessee and where such return of income has not been filed, no relief was directed to be allowed. We find that such direction by the Id CIT(A) is well within his powers and jurisdiction u/s 250(1) and doesn't result in setting aside the matter to the file of the AO for making a fresh assessment and adjudication afresh. In the result, the ground of appeal so taken by the Revenue is dismissed.

64. In Ground no. 4, the Revenue has challenged the findings of the Id CIT(A) where he has held that there is no material difference in the provisions of tax deduction at source (TDS) under Chapter-XVIIB and tax collection at Source (TCS) under Chapter-XVIIBB of the Income Tax Act, 1961 and the facts & the judgment held in assessment proceedings u/s 201(1)/201(1A) for default in the case of M/s Hindustan Coca Cola (P) Ltd are squarely applicable in the case of the assessee for assessment proceedings u/s 206C(6)/206C(7) of the Act for TCS defaults.

65. The Id DR relied on the findings of the Assessing officer and submitted that there are specific provisions contained in section 206C in respect of tax

collection at source and the liability of assessee should therefore be governed by such provisions and not in terms of the decision of Hon'ble Supreme Court in the case of M/s Hindustan Coca Cola (P) Ltd. rendered in context of tax deduction at source.

66. Per contra, the Id AR supported the findings of the Id CIT(A) and submitted that the issue involved is directly covered in as much as in A.Y. 2008-09 and onwards till A.Y. 2012-13, the CIT(A) had already held that TDS and TCS provision are principally the same and against which the department not having gone in appeal, such an issue has already become final. Even the Tribunal in ITA No. 316/JP/2018 vide its order dated 29.08.2018 for A.Y. 2009-10 and again in ITA NO. 394/JP/2016 vide its order dated 28.09.2018 for A.Y 2008-09 has held that there is no material difference between the provisions of the TDS and TCS and they are principally the same. Hence, this ground of appeal also deserves to be dismissed.

67. We have heard the rival contentions and pursued the material available on record. In assessee's appeal for A.Y 2009-10, the Coordinate Bench has held that the provisions of section 206C are analogous and a measure for compliance of collection of tax at source as a similar measure for compliance of deduction of tax at source is provided under section 201 of the Act. Regarding decision of the Hon'ble Supreme Court in the case of M/s Hindustan Coca Cola (P) Ltd., we find that the ratio so laid down therein has been subsequently brought on the statute books by way of proviso to sub-section (6A) to section 206C of the Act. Therefore, where the specific amendment has been brought in by the legislature accepting the ratio so laid down by the

Hon'ble Supreme Court, we see no infirmity in the findings of the Id CIT(A) where he has held that the ratio so laid down continues to apply in context of collection of taxes at source. In the result, the ground so taken by the Revenue is hereby dismissed.

68. In the result, the appeal of the Revenue is dismissed.

69. Now, coming to cross appeals in ITA No. 423/JP/2018 & 776/JP/2018 for A.Y 2014-15 and ITA No. 424/JP/2018 & 777/JP/2018 for A.Y 2014-15, both the parties fairly submitted that the facts and circumstances of the case are exactly identical as in ITA No. 422/JP/2018 and 778/JP/2018 for A.Y 2013-14 and similar contentions have been advanced by both the parties, therefore, our findings and directions contained in ITA No. 422/JP/2018 and 778/JP/2018 shall apply *mutatis mutandis* to these cross appeals.

70. In the result, all the cross appeals filed by the assessee and Revenue for respective assessment years are disposed off in light of aforesaid directions.

Order pronounced in the open Court on 15/04/2020.

Sd/-
(Sandeep Gosain)
Judicial Member

Sd/-
(Vikram Singh Yadav)
Accountant Member

Jaipur

Dated:- 15/04/2020.

*Ganesh Kr.

Copy of the order forwarded to:

1. The Appellant- M/s Eid Mohammad Nizamuddin, Tonk
2. The Respondent- ITO (TDS-3), Jaipur
3. CIT
4. CIT(A)
5. DR, ITAT, Jaipur.
6. Guard File { ITA. No. 422, 423, 424, 778, 776 & 777/JP/2018 }

By order,

Asst. Registrar