

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR
श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ ITA No. 316/JP/2018
निर्धारण वर्ष / Assessment Year :2009-10

Income Tax Officer (TDS-3), Jaipur.	बनाम Vs.	M/s Eid Mohammad Nizamuddin, Subhash Bazar, Tonk.
TAN No.: JDHI 01315 G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ ITA No. 248/JP/2018
निर्धारण वर्ष / Assessment Year :2009-10

M/s Eid Mohammad Nizamuddin, Subhash Bazar, Tonk.	बनाम Vs.	Income Tax Officer (TDS-3), Jaipur.
TAN No.: JDHI 01315 G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri J.C. Kulhari (JCIT-DR)
निर्धारिती की ओर से / Assessee by : Shri Mahendra Gargieya &
Shri Fazlur Rahman (Adv)

सुनवाई की तारीख / Date of Hearing : 12/07/2018
उदघोषणा की तारीख / Date of Pronouncement : 29/08/2018

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

These cross appeals are directed against the order dated
21/12/2017 of Id. CIT(A)-3, Jaipur arising from the order passed U/s

206C(6)/206C(7) of the Income Tax Act, 1961 (in short the Act) for the A.Y. 2008-09.

2. The brief facts leading to the controversy are that the assessee is a partnership firm, engaged in the business of manufacturing and trading of Bidi. There was a survey U/s 133A(2A) of the Act at the business premises of the assessee on 23/3/2015. On examination and verification of record, it was found that the assessee firm is engaged in trading of Tendu leaves mainly in three States i.e. Rajasthan, M.P. and Maharastra. During the course of survey proceedings, it was detected that for the F.Y. 2007-08 to 2014-14 relevant to assessment year 2008-09 to 2015-16, the assessee firm was liable to collect tax at source (TCS) @ 5% on sale of Tendu leaves as per provisions of Section 206C(1) of the Act but it has defaulted for non-collecting of TCS. Accordingly, the Assessing Officer proceeded to pass order U/s 206C(6)/206C(7) of the Act on 30/03/2016 whereby the assessee was held as "assessee in default" within the meaning of Section 206C(6) read with Section 206C(7) of the Act for non-collection of tax of Rs. 98,84,195/- including interest.

3. The assessee challenged the order passed by the Assessing Officer U/s 206C(6)/206C(7) of the Act before the Id. CIT(A) and also raised objection against the validity of the said order on the ground of limitation.

The Id. CIT(A) has rejected the ground of time barred order passed by the Assessing Officer, however, granted part relief to the assessee to the extent of return of income filed by the purchaser of tendu leave, for which they issued form No. 27BA which were produced before the Id. CIT(A). Hence, both the assessee as well as the revenue are aggrieved by the impugned order of the Id. CIT(A) and filed these cross appeals. The grounds raised in the cross appeals are as under:

Grounds of revenue's appeal:

- “1. Whether on the facts and in the circumstances of the case, the Ld. 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 Ld. 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.

That the appellant craves leave to add, amend or alter the grounds of appeal on or before the date the appeal is finally heard for disposal.”

Grounds of assessee's appeal:

- “1. The impugned order passed u/s 206C(6) r/w 206C(7) of the Act dated 30.03.2016 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 30.03.2016 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 30.03.2016 i.r.t. F.Y. 2008-09 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.24,40,544/-:** *The Id. CIT(A)-III, Jaipur erred in law as well as 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.24,40,544/- 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 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.*
5. *The appellant prays your honour indulgence to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing."*

4. In the ground Nos. 1 and 2 of the assessee's appeal, a legal issue of validity of order passed by the Assessing Officer U/s 206C(6)/206C(7) of the Act has been raised. This issue being the order passed by the Assessing Officer is barred by limitation is purely a legal issue and goes to the root of the matter, therefore, we will first take up grounds NO. 1 and 2

of the assessee's appeal for consideration and adjudication. The Id AR of the assessee has submitted that the impugned order passed by the Assessing Officer on 30/3/2016 is barred by limitation as beyond the reasonable period of time. He has submitted that though the provisions contained U/s 206C of the Act does not prescribe any time limit for initiation of proceedings or for passing order thereunder, however, that does not mean that an unlimited time is available to the ITO to take action or to pass order at any time as per his sweet will. The Id AR has thus contended that when no time limit is provided under the provisions then can be authorities be permitted to take action at any time which is beyond the comprehension as it will lead to give the power to the Assessing Officer to take an action even after lapse of indefinite period. Thus, under the law, unlimited time is not permissible to the authorities for taking action U/s 206C of the Act. Thus, the Id AR has submitted that the ITO cannot exercise its jurisdiction after lapse of a reasonable time which can be considered as a proper time period and limitation for initiation of proceedings and passing the order U/s 206C of the Act, otherwise it would result in unsettling the finality of the matter even after an indefinite period. He has referred to the various decisions of the Hon'ble High Courts as well as this Tribunal on the point where the courts have taken a view that the period of four years is a reasonable time within which any

proceeding can be initiated and completed but not beyond that unless otherwise provided. Thus, the Id AR has submitted that a similar situation was prevailing in respect of the orders passed U/s 201(1) and 201(1A) of the Act prior to the amendment whereby the limitation was provided under the said provision. Therefore, prior to the amendment, various courts while examining the issue had held that a time period of four years is a reasonable limitation for passing order U/s 201(1)/201(1A) of the Act. He has relied upon the decision of Hon'ble Delhi High Court in the case of Vodafone Essar Mobile Services Ltd. Vs Union of India & ors. (2016) 385 ITR 436 (Del) as well as the decision in the case of CIT Vs NHK Japan Broadcasting 305 ITR 137. The Id AR has then submitted that following these decisions, the Hon'ble Gujarat High Court in the case of Tata Teleservices U/s Union of India & Anr. (2016) 385 ITR 497 (Guj) has also reiterated the view that the limitation U/s 201 shall be four years and the order passed beyond time limit of four years is time barred. The Id AR has then relied upon the decision of Hon'ble Gujarat High Court in the case of CIT (TDS) Vs. Anagram Wellington Assets Management Co. Ltd. (2016) 389 ITR 654 (Guj) and submitted that the Hon'ble Gujarat High Court has also concurred with the view of the Hon'ble Delhi High Court and held that the Assessing Officer cannot be given unrestricted powers which can be exercised beyond reasonable period of four years. Hence, the Id AR has

submitted that on the similar analogy, the order passed by the Assessing Officer dated 30/3/2016 is beyond the period of four years from the end of the financial year in which the transaction was carried out. Hence, the Id AR has submitted that the order passed by the Assessing Officer U/s 206C(6)/206C(7) of the Act is invalid being barred by limitation and liable to be quashed.

5. On the other hand, the Id DR has submitted that when no limitation is provided in the statute for initiation of action and passing the order U/s 206C of the Act then there is no bar on the jurisdiction and power of the Assessing Officer to pass the order. Further the decisions relied upon by the Id AR of the assessee are not applicable in this case as those decisions are in respect of orders passed U/s 201(1)/201(1A) of the Act and not for a failure of collection of tax. Therefore, the case laws are not on the point of limitation for passing the order U/s 206C(6)/206C(7) of the Act. He has relied upon the order of the Id. CIT(A).

6. We have considered the rival submissions as well as the relevant material on record. There is no dispute that Section 206C or any other provisions of the Income Tax Act do not provide any limitation for passing the order by the Assessing Officer U/s 206C(6)/206C(7) of the Act holding the assessee in default due to failure to collect tax at source. However,

non-providing the limitation in the statute would not confer the jurisdiction/powers to the Assessing Officer to pass order U/s 206C at any point of time disregarding the amount of time lapse from such default of collection of tax at source. If the contention of the revenue is accepted that the Assessing Officer is free to initiate the action and pass the order U/s 206C at any time depending upon the circumstances of the case, it would amount to give an unfettered powers to the Assessing Officer to take action at any point till an indefinite period. Therefore, such interpretation or inference would defy or defeat the very purpose and scheme of the statute and further the concept of finality of matters. Hence, in such a situation, a reasonable time period is allowed to the taxing authority for a particular action or an order to be passed otherwise it would lead to unregulated powers and authorities to the taxing authority. The law is to be followed by the authorities concerned as well as the persons governed by the said law and therefore, in absence of the limitation on the powers of the taxing authority, it would allow the misuse of such powers and provisions of the Act. It is pertinent to note that when a limitation is not provided in statute for a specific purpose then the limitation provided for the purpose of completing the assessment would be a proper guidance for taking the reasonable time period within which an order has to be passed by the taxing authority. An identical situation was

prevailing in respect of the order passed U/s 201(1)(201(1A) of the Act prior to the amendment vide Finance Act, 2009 w.e.f. 01/4/2010 whereby subsection (3) was inserted to Section 201 of the Act and limitation has been provided for passing the order U/s 201(1) and 201(1A) of the Act. When this issue of limitation for passing the order U/s 201(1)/201(1A) of the Act came before the Courts, it was held that the Assessing Officer cannot be given unfettered powers which can be exercised even beyond a reasonable time because of non-providing the limitation in the statute. Hence, the courts have taken a consistent view that reasonable time period for passing the order U/s 201(1)/201(1A) of the Act would be four years. The Hon'ble Delhi High Court in the case of CIT Vs. NHK Japan Broadcasting (supra) has considered and decided this issue in para 18 to 25 as under:

- “18. Insofar as the Income-tax Act is concerned, our attention has been drawn to section 153(1)(a) thereof which prescribes the time-limit for completing the assessment, which is two years from the end of the assessment year in which the income was first assessable. It is well-known that the assessment year follows the previous year and, therefore, the time-limit would be three years from the end of the financial year. This seems to be a reasonable period as accepted under section 153 of the Act, though for completion of assessment proceedings. The provisions of re-assessment are under sections 147 and 148 of the Act and they are on a completely different footing and, therefore, do not merit consideration for the purposes of this case.*
- 19. Even though the period of three years would be a reasonable period as prescribed by section 153 of the Act for completion of proceedings, we have been told that the Income-tax Appellate Tribunal has, in a series of decisions, some of which have been mentioned in the order which is under challenge before us, taken the view that four years would be a reasonable period of time for initiating action, in a case where no limitation is prescribed.*

20. *The rationale for this seems to be quite clear - if there is a time-limit for completing the assessment then the time-limit for initiating the proceedings must be the same if not less. Nevertheless, the Tribunal has given a greater period for commencement or initiation of proceedings.*
21. *We are not inclined to disturb the time-limit of four years prescribed by the Tribunal and are of the view that in terms of the decision of the Supreme Court in Bhatinda District Co-op. Mil (P.) Union Ltd.'s case (supra) action must be initiated by the competent authority under the Income-tax Act where no limitation is prescribed as in section 201 of the Act within that period of four years.*
22. *Learned counsel for the revenue submitted that the Department came to know that the assessee was an assessee in default only in November, 1998 when a survey was conducted and it came to be known only then that when the assessee had not deducted tax at source on the global salary. We are of the opinion that the date of knowledge is not relevant for the purposes of exercising jurisdiction insofar as the provisions of the Income-tax Act are concerned. If it were so, the limitation period, as for example prescribed under section 147/148 of the Act would become meaningless if the concept of knowledge is imported into the scheme of the Act.*
23. *The second part of the argument of learned counsel for the revenue in this regard was that the question of limitation did not at all arise because the assessee had itself admitted its liability and it voluntarily paid the tax and interest on that amount. Again, we are not in agreement with learned counsel for the revenue in this regard.*
24. *It appears that the assessee paid the tax voluntarily as well as interest thereon but the acceptance of the liability by the assessee would not by itself extend the period of limitation nor would it extend the reasonable time that is postulated by the scheme of the Income-tax Act. The assessee cannot be put, in a sense, in a worse position merely because it has admitted its liability. If the assessee had denied its liability the question that would have arisen would be whether the revenue could have initiated proceedings after a lapse of four years. The answer to that would of course have to be in the negative in view of the reason that we have already indicated above. The fact that the assessee agreed to pay the tax voluntarily cannot put the assessee in a situation worse than if it had contested its liability.*
25. *We may also note that under section 191 of the Act, the primary liability to pay tax is on the person whose income it is that is the deductee. Of course, a duty is cast upon the deductor, that is the person who is making the payment to the deductee, to deduct tax at source but if he fails to do so, it does not wash away the liability of the deductee. It is still the liability of the deductee to pay the tax. In that sense, the liability of the deductor is a vicarious liability and, therefore, he cannot be put in a situation which would prejudice him to such an extent that the liability would remain hanging on his head for all times to come in the event the Income-tax Department decides not to take any action to recover the tax either by passing an order under section 201 of the Act or through making an assessment of the income of the deductee."*

The Hon'ble High Court was of the view that the time limit for completing the assessment as per Section 153(1)(a) is two years from the end of the assessment year in which the income was first assessable which was considered as reasonable period for passing the order U/s 201(1)/201(1A) of the Act. The Hon'ble High Court has turned down the contention of limitation provided U/s 147/148 of the Act and hence, it was observed that three years would be a reasonable period as prescribed by Section 153 for completion of proceedings. However, since the Tribunal in a series of decisions had taken a view that the period within which the order U/s 201(1)/201(1A) shall be passed would be four years and therefore, the Hon'ble High Court has refrained from disturbing the view taken by this Tribunal. Following the said decision, the Hon'ble Delhi High Court in a subsequent decision in the case of Vodafone Essar Mobile Services Ltd. Vs Union of India & ors. (supra) has reiterated the view taken in the case of CIT Vs NHK Japan Broadcasting (supra). The Hon'ble Gujarat High Court in the case of Tata Teleservices Vs. Union of India & Anr. (supra) has held in paras 15 and 16 as under:

- “15. Considering the law laid down by the Hon'ble Supreme Court in the aforesaid decisions, to the facts of the case on hand and more particularly considering the fact that while amending section 201 by Finance Act, 2014, it has been specifically mentioned that the same shall be applicable w.e.f. 1/10/2014 and even considering the fact that proceedings for F.Y. 2007-08 and 2008-09 had become time barred and/or for the aforesaid financial years, limitation under section 201(3)(i) of the Act had already expired on 31/3/2011 and 31/3/2012, respectively, much prior to the

amendment in section 201 as amended by Finance Act, 2014 and therefore, as such a right has been accrued in favour of the assessee and considering the fact that wherever legislature wanted to give retrospective effect so specifically provided while amending section 201(3) (ii) of the Act as was amended by Finance Act, 2012 with retrospective effect from 1/4/2010, it is to be held that section 201(3), as amended by Finance Act No.2 of 2014 shall not be applicable retrospectively and therefore, no order under section 201(i) of the Act can be passed for which limitation had already expired prior to amended section 201(3) as amended by Finance Act No.2 of 2014. Under the circumstances, the impugned notices / summonses cannot be sustained and the same deserve to be quashed and set aside and writ of prohibition, as prayed for, deserves to be granted.

16. In view of the above and for the reasons stated above, all these petitions succeed. The impugned notices / summonses are held to be invalid and the same are hereby quashed and set aside and the respondents herein are hereby restrained by writ of prohibition from proceedings with the impugned notices / summonses which are, as such, hereby quashed and set aside. Rule is made absolute accordingly in each of the petitions. In the facts and circumstances of the case, there shall be no order as to costs.”

Thus, the Hon'ble High Court has specifically dealt with the issue of applicability of amendment brought to the provisions of Section 201 of the Act and held that the proceedings in the assessment year 2007-08 and 2008-09 had become time barred as the limitation U/s 201(3) has already expired and otherwise amendment cannot be applicable retrospectively. The Hon'ble Gujarat High Court in the case of CIT (TDS) Vs. Anagram Wellington Assets Management Co. Ltd. (supra) has again considered this issue and held in para 7 as under:

- “7. It is true that it is the duty of the assessee to deduct TDS and the question is whether it is likely to cause any loss to the revenue if it is not deducted in time. If TDS is not deducted, it is required to be paid in the first installment of advance tax, which is required to be paid within four months from the date of filing of return. Therefore, even if the contention of Mr. Bhatt is accepted, loss that may be caused to the revenue is only to the tune of interest of four months on delayed payment of tax. Not only that when the declaration about this is made in the return, it comes within the knowledge of the Assessing Officer even if the TDS is*

not deducted. Therefore, we are of the view that the period of four years is reasonable period and we concur with the view taken by the Delhi High Court. It is true that the Court cannot legislate the Act, however, the Assessing Officer also cannot be given unfettered powers, which he can exercise even beyond the reasonable period of four years. Therefore, in our view, period of four years is just and proper and the Tribunal has not committed any error while passing the impugned order. Therefore, all these appeals are dismissed. The questions posed for our consideration are answered in favour of the assessee and against the revenue."

Thus, four years time period was considered as reasonable period for passing the order U/s 201(1)/201(1A) of the Act. We find that the similar view has been taken by the Hon'ble Andhra Pradesh High Court in the case of CIT Vs. U.B. Electronics Instruments Ltd. (2015) 371 ITR 314 (AP) as well as by the Hon'ble Kerala High Court in the case of CIT(TDS) & Anr. Vs Bharat Hotels Limited (2016) 384 ITR 77 (Karn.). The Hon'ble Karnataka High Court has dealt this issue in para 23 to 27 as under:

- “23.** In the memorandum explaining the provisions in the Finance (II) Bill, 2009, it was clearly stated that 'to provide sufficient time for pending cases, it is proposed to provide that such proceedings for a financial year beginning from 1st April, 2007 and earlier years can be completed by the 31st March, 2011. As such, the memorandum itself clarified that the proviso is for pending cases, and not decided cases. The Circular dated 3.6.2010, issued by the CBDT, also clearly specifies that the said proviso would be for pending cases and not decided cases. With regard to the applicability of the amendment made by the Finance Act, 2009 with effect from 1.4.2010, it was also clarified to be from the assessment year 2011-12 and subsequent years. As such, it is clear that proviso to sub-section (3) did not legalize the cases where action had already been taken, but was meant for only such cases which were pending at the time of insertion of sub-section (3) to Section 201 of the Act.
- 24.** Thus, for the reasons given above, we find that the Tribunal was correct in holding that the order passed under Sec.201 (1) and (1A) of the Act on 28.1.2008 for the assessment year 2002-03, would be barred by limitation as the period of limitation would be four years from the end of the financial year in question. As such, we answer the first question raised in this appeal, in favour of the respondent assessee and against the Revenue.

Question No.2;

25. Now, coming to the second question of law, it is true that in view of the first question having been decided in favour of the assessee, this question remains only academic in nature. However, since the question would be relevant for the other assessment years (more particularly, assessment year 2004-05 and 2005-06), the appeals regarding which assessment years are also connected with this appeal, learned counsel for both the parties submitted that this question may also be considered and decided in this appeal, which would then govern the other appeals of the Revenue filed against the same assessee.

26. Sri K V Aravind, learned counsel for the Revenue has submitted that sub-section (1A) of Section 201 of the Act provides for payment of interest. The sub-section, as it stood at the relevant time, prior to 1.7.2010, reads as under:

"(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at 'one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of Section 200."

The said sub-section clearly provides that interest would be payable from the date on which such tax was deductible, i.e., the date when payment was made by the assessee to the Recipient; till the date on which such tax was actually paid, i.e., tax was deposited by the Recipient.

27. The provision for tax deduction at source is only a mechanism for collection of tax by the payer, even though the liability to pay tax is that of the Recipient. The provision for payment of interest under sub-section (1A) of Section 201 of the Act is only of compensatory nature. It cannot be a means to penalise the payer. The provision for payment of interest would arise from the date when it ought to have been deducted i.e., from the date of payment by the payer to the Recipient. The liability to pay interest would end on the date when such tax has been deposited by the Recipient, either by way of advance tax or along with the return of income. Interest, herein, being compensatory in nature, cannot be thus charged for the period beyond the date when such tax has already been deposited by the Recipient. If the Revenue is permitted to charge interest even after the Recipient has deposited the tax, the same would amount to undue enrichment of the Revenue, as even after receiving the tax, it would continue to get interest on the amount which has already been paid or deposited with it. As such, the liability of the assessee herein would not be for payment of interest after the period of deposit of tax by the Recipient."

Thus, a consistent view has been taken by the various Hon'ble High Courts on this issue that when no limitation is provided in the statute then a period of four years is considered as reasonable for passing the order U/s 201(1)/201(1A) of the Act. The provisions of Section 206C of the Act 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 U/s 201 of the Act. The department has accepted those decisions and consequently brought amendment to the provisions of Section 201 and thereby provided the limitation for passing the orders U/s 201(1)/201(1A) of the Act which was inline with the view taken by the Hon'ble High Courts on this issue. Though, subsequently an amendment vide Finance Act, 2014 was again brought in the said provisions of Section 201 enlarging the period of limitation, however, the said amendment is not retrospective. Accordingly, the liability of tax collected at source is also a vicarious liability of the assessee to assist the department in the measure to avoid any possibility of tax avoidance by the persons with whom the specific transactions have been entered into by the assessee. Therefore, in our considered opinion, the analogy and reasoning given in the decisions of various Hon'ble High Courts cited supra in respect of the limitation for passing the order U/s 201 of the Act, is also applicable for considering the reasonable time period for passing the order U/s 206C of the Act. The

provisions of Section 201 and 206C of the Act are having same scheme and object being the measures against the avoidance of tax by the opposite parties with whom the assessee had the transactions. Hence, applying the reasonable period of limitation as four years within which the Assessing Officer could pass the order U/s 206C(6)/206C(7) of the Act, we hold that the impugned order passed by the Assessing Officer on 30/3/2016 is beyond the said reasonable period of limitation and consequently is invalid being barred by limitation. Accordingly, we quash the impugned order passed U/s 206C(6)/206C(7) of the Act.

7. Since, we have quashed the order passed U/s 206C(6)/206C(7) of the Act, therefore, the other issues raised on the merits of the issue in the cross appeals become infructuous.

8. In the result, appeal of the assessee is allowed and that of revenue is dismissed.

Order pronounced in the open court on 29/08/2018.

Sd/-

(विक्रम सिंह यादव)

(VIKRAM SINGH YADAV)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 29th August, 2018

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- The ITO (TDS-3), Jaipur.

Sd/-

(विजय पाल राव)

(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

2. प्रत्यर्थी/ The Respondent- M/s Eid Mohammad Nizamuddin, Tonk.
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त(अपील)/The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 316 & 248/JP/2018)
आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar