IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: BANGALORE

BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No. 2624/Bang/2025
Assessment Year: 2018-19

M/s. Artha Real Estate Corporation Limited, No. 110/37, Solitaire Building, Service Road, Outer Ring Road, Marathahalli, Bengaluru – 560 037. **PAN: AAGCA 8011Q**	**Vs.**	The Deputy Commissioner of Income Tax, TDS Circle – 1(1), Bangalore.
APPELLANT		**RESPONDENT**

Assessee by	:	Shri Shesha Hegde, CA
Revenue by	:	Shri Balusamy N, Jt.CIT (DR)

Date of Hearing	:	19-02-2026
Date of Pronouncement	:	-04-2026

O R D E R

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. ITA No.2624/Bang/2025 is filed by Artha Real Estate Corporation Limited (the assessee/appellant) for the assessment year 2018-19 against the appellate order passed by CIT(Appeals)-4, Delhi [ld. CIT(A)] dated 18.9.2025 wherein the appeal filed by the assessee against the order dated 24.1.2025 passed u/s. 201 of the Income Tax Act, 1961 [the Act] by DCIT, TDS Circle 1(1), Bangalore holding the assessee to be in default with respect to non-deduction of tax at source on the year end payment amounting to Rs.77,55,264 on which tax was required to be deducted at source amounting to

Rs.4,78,772 and consequent interest u/s. 201(1A) for 82 months was Rs.3,92,593 and further short deduction of amount on salary payment made to two persons for which the assessee was found to be in default u/s. 201(1) of Rs.11,40,596 on which interest u/s. 201(1A) was charged of Rs.9,35,288 was dismissed.

2. The assessee is in appeal raising the following grounds of appeal: -

"1. The order passed under the provisions of section 250 of the Act by ADDL/JCIT (A)-4 for short [for short "learned CIT(A)"] confirming the order passed by the learned Assessing Officer in so far as it is against the Appellant, is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the case.

2. The order passed by the learned CIT(A) is in gross violation of principles of natural justice in not affording the appellant reasonable opportunity of being heard under the facts and circumstances of the case.

3. The learned CIT(A) has erred by confirming the order passed by the learned Assessing Officer learned Assessing Officer treating the Appellant as Assessee in default for not deducting the taxes at source on certain provisions for expenses made in the books of accounts on the facts and circumstances of the case. The learned Assessing Officer erred in assessing the tax liability of the Appellant at Rs. 39,47,249 on the facts and circumstances of the case.

WITHOUT PREJUDICE TO ABOVE

4. The learned CIT(A) has erred by not appreciating that the Appellant is required to deduct the taxes at source on provisions which has not crystallized under the provisions of Chapter XVII — B of the Act on the facts and circumstances of the case. The learned CIT(A) failed to appreciate the requirement to deduct the tax arises only when the Appellant is required to pay the income on the facts and circumstances of the case.

5. The learned CIT(A) has erred by not appreciating that the Appellant should have deducted the taxes at source on provisions which have been reversed subsequently in the books of account on the facts and circumstances of the case.

FURTHER WITHOUT PREJUDICE TO ABOVE

6. The learned CIT(A) ought to have appreciated that the provision towards audit fees have crystallised in subsequent years and the taxes

have been deducted at source and paid in respective years by the Appellant on the facts and circumstances of the case.

7. The learned CIT(A) ought to have appreciated that the provision towards payments to contractors have crystallised in subsequent years and the taxes have been deducted at source and paid in respective years by the Appellant on the facts and circumstances of the case.

8. The learned CIT(A) ought to have appreciated that the provision towards professional services have crystallised in subsequent years and the taxes have been deducted at source and paid in respective years by the Appellant on the facts and circumstances of the case.

9. The learned CIT(A) ought to have appreciated that the Appellant has not deducted and deposited the taxes at source on salary expense on the facts and circumstances of the case.

10. The learned CIT(A) ought to have appreciated that there are no requirements to deduct the taxes at source on book provisions where liability to pay has not crystallized and which have been reversed subsequently on the facts and circumstances of the case.

11. Without prejudice, the learned CIT(A) has erred in law in confirming the levy of interest under the provisions of section 201(1A) of the Act on the facts and circumstances of the case.

12. Without prejudice, the learned CIT(A) has erred in law in confirming the initiation of the penalty proceedings under the provisions of the Act on the facts and circumstances of the case.

13. The Appellant craves to add, alter, delete or substitute any of the grounds urged above.

14. In view of the above and other grounds as may be urged at the time of hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity."

3. Ground Nos. 1 & 2 are general in nature, nothing was submitted before us and therefore the same are dismissed.

4. Ground No.3 of the appeal is with respect to non-deduction of tax at source of the provisions made in the books of account wherein the ld. AO determined the liability of the assessee amounting to Rs.39,47,249. Ground No.4 is with respect to the fact that provision made at the end of the year has not crystallised and therefore there is no requirement of tax deducted at source. Ground No.5 relates to

the fact that the provisions have been reversed subsequently in the books of account, the assessee should not have deducted tax at source. Ground No.6 to 12 are also supporting the above issue.

5. Briefly stated the facts show that assessee is a company engaged in the business of real estate and construction. The financial investment is with the Times of India group. On verification of the tax audit report, it was found that in Col. 21 of the Audit Report it is stated that assessee has failed to deduct tax at source on certain expenses and the whole list of 16 parties was mentioned. Thus it was apparent that assessee did not deduct tax at source on payment made to 16 parties and therefore assessee was issued notice u/s. 201 of the Act that why assessee should not be held to be "assessee in default". The total payment was with respect to Rs.77,55,264 on which tax should have been deducted of Rs.4,78,772 and interest thereon u/s. 201(1A) of the Act was computed at Rs.3,92,593.

6. Another issue that was pointed out by the ld. AO was that assessee has paid managerial remuneration of Rs.77,23,286 to Mr. R. Chandrasekar, however tax is deducted only of Rs.52,72,006. Further managerial remuneration is paid to Mr. Giridhar Kumar of Rs.50 lakhs, however tax is deducted only Rs.36,49,293. This short deduction of tax at source was worked out at Rs.9,35,288. The order was passed on 24.1.2025.

7. The assessee preferred appeal before the ld. CIT(A) who issued 4 notices, but no response was received. Therefore the ld. CIT(A) dismissed the appeal of the assessee holding that assessee is not interested in prosecuting the appeal.

8. On reading CIT(A)'s order, it is apparent that the issue is not decided on the merits of the case, but on account of non-prosecution.

9. The assessee aggrieved with the order of the ld. CIT(A) has preferred the appeal before us wherein it is submitted that it is the practice of the assessee that wherever the service provider has completed the contractual term and service bills are accounted crediting the party

and appropriate tax is deducted. It was stated that in case of the provision made in the books of account as on 31.3.2018, [Year end provisions] services are not completed by the service provider and it is a mere entry creating a provision in the books of account, which is reversed in the next year. As required under the provisions of law, the tax auditor has reported such provision in Form 3CD. It was further submitted that as and when tax is required to be deducted by the assessee, the assessee has followed the procedure. The provision made at the end of the year on 31.3.2018 is reversed and no payment has been made to the vendors in respect of such provision and therefore on such provision the liability to deduct tax at source does not arise.

10. Before us, the ld. AR, Shri Shesha Hegde, CA, appeared, who filed a paperbook containing 156 pages. He referred to the provisions of section 4(1) of the Act and explained the facts of the case stating that assessee has made provision at the end of the year in its books of account for which the invoices have not been received and therefore no tax is required to be deducted thereon as on 31.3.2018. He submitted that this provision is reversed on the first day of the next year and thereafter as and when bills are received, the expenses are debited to the books of account and tax is deducted at source. His main contention is that on the year end provisions, no tax is required to be deducted at source, that in subsequent year whenever invoices are received and bills are paid adequate tax is deducted. He referred to the list of 16 such transactions totalling to Rs.77,55,264 at page 114 of the PB wherein name of the party, PAN, nature of expenses, total provision made was explained. He submitted that out of sum of Rs.77,55,264, the expenses debited in the FY 2018-19 i.e., AY 2019-20 is Rs.40,59,470. Further a sum of Rs.16,24,666 were fully reversed and still balance of Rs.29,96,588 is outstanding in the books of account. He submits that on the sum paid of Rs.40,59,470 in FY 2019-20, assessee has deducted tax at source and deposited

the same by issuing Form 16 of the Act to the recipient of income. He submits that at the end of the year, there is no requirement to deduct tax at source on such provisions made.

11. With respect to the salary paid to various persons viz., Giridhar Kumar, he referred to page 130 of the PB stating that variable pay was required to be paid to Mr. Giridhar Kumar, Chief Financial Officer subject to performance and extent of achievement of target @ Rs.66,667 which was neither paid in FY 2017-18, but is paid in FY 2019-20 on which tax is deducted tax at source. He referred to the provisions of section 192 of the Act submitting that according to that, TDS is required to be made at the time of payment. He submitted that in the subsequent year when actual payment of salary is made, u/s. 192 tax is deducted at source, necessary Form 16 was issued to the respective parties. With respect to salary paid to Mr. Chandrasekhar, he submitted that this is also incentive payment which is required to be paid in subsequent year. Accordingly he submits that no tax is required to be deducted at source on this payment.
12. The ld. DR vehemently supported the orders of lower authorities.
13. We have carefully considered the rival contentions and perused the orders of the ld. lower authorities. No doubt the ld. CIT(A) has not decide the issue on the merits of the case and therefore in substance the appeal is required to be restored back to the file of the ld. CIT(A) to decide the appeals of the assessee on its merits. The ld. CIT(A) does not have any power to hold that the appeal of the assessee is dismissed for non-prosecution.
14. On the issue of tax deduction at source on the year end provision, we find that.
    a) As per page 114 of the PB assessee has given the name of the recipient of the income, their PAN, provision made for the year ended on 31.3.2018, therefore as on the date of close of the accounting year, the payee, nature of expenses

and amount of expenditure was fully ascertained. It is not the case of the assessee that payee and amount is unascertainable.

b) Though the amount was credited to the expenditure payable account does not merit any consideration for relief or realization from the provisions of the year end made by the assessee for non-deduction of tax at source. According to section 19C (2) of the Act, even if the amount is credited to any other account other than the account of creditor, TDS is required to be made. Similar provision exists in explanation (C) of Section 194 J of the Act.

c) It is also an established fact that assessee is a company which is audited by Lodha & Co., has maintained its books of accounts in terms of provisions of section 134 of the Companies Act, 2013. The books of account are also maintained on the accrual system of accounting. This is so stated by Auditor in audit Report as well as the Directors of the company in Report of Board of Directors. Thus, it cannot be said that the amount of Rs.77,55,264 which is provided by the assessee at the end of the year, did not incur the expenditure. Further according to Note No.2 to the financial statement, this fact is also confirmed.

d) According to the provisions of section 194C the assessee is required to deduct tax at source when the same is credited to the account of the contractor or at the time of payment, whichever is earlier. According to sub-section (2) of section 194C if the same is credited to any other account other than the account of the recipient, then also assessee is required to deduct tax at source. With respect to the provisions of section 194J, similar provision of section 194C (2) is incorporated in the Explanation (c) of the Act. Therefore, even if these amounts are credited to the expenses payable

account, the assessee cannot escape the liability of tax deduction of tax at source.

e) There are several decisions of the coordinate benches where it is held that in such cases tax is required to be deducted at source on year end provisions.

f) The claim of the assessee is that in Form 3CD Auditor has mentioned and to which the assessee does not agree, this argument does not hold water for the simple reason that Form 3CD is prepared by the assessee and the Auditor certifies that the details mentioned in the Form are true and correct. Therefore, the argument by the ld. AR that it is the Auditor who mentions the details in Form 3CD is absolutely incorrect not supported by any provision of law and is not in accordance with guidelines issued by ICAI for tax audit u/s. 44AB of the Act. Hence this argument stands rejected.

Accordingly, we find no infirmity in the order of the ld. AO to deduct tax at source to hold that assessee is assessee in default for non-deduction of tax at source of Rs.77,55,264 being the year end provision. Accordingly, we hold that assessee is correctly stated to be an assessee in default in non-deduction of tax at source on the provision made at the end of the year which was reversed in subsequent period.

15. However, we find that assessee deserves relief in terms of the first proviso so far as the tax amount 201(1) of the Act if the recipient of income has already offered this income and the necessary certificate is submitted before the AO. The assessee is directed to furnish the necessary information as per the proviso which may be verified by the ld. AO and then decide to what extent the assessee is deemed to be assessee in default.

16. With respect to the salary payment, we find that such salary was not paid to the above two parties during the FY 2017-18. According to

the provisions of section 192 of the Act, tax deduction at source is required to be made at the time of payment to the employee. In fact, the same is paid by the assessee to its employees on performance basis to the Officer next year, assessee has deducted tax at source and issued necessary Form 16 for that year also. Therefore assessee has correctly followed the provisions of section 192 of the Act.

17. Accordingly, we do not find any reason to uphold the action of the ld. AO to hold that assessee is assessee is in default with respect to the sum of Rs.11,40,596. Accordingly, assessee gets relief of above sum along with interest u/s. 201(1A) of the Act amounting to Rs.9,35,288. Thus, out of above liability of Rs.39,47,249/- the above amount requires to be reduced.

18. Further with respect to TDS on year-end provision of Rs.4,78,772 and interest u/s. 201(1A) of Rs.3,92,593 amounting to Rs.8,71,365 the issue is restored back to the file of ld. AO to examine the benefit if available to the assessee of the first proviso to section 201 of the Act.

19. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 28th April 2026.

Sd/-	Sd/-
(KESHAV DUBEY)	(PRASHANT MAHARISHI)
JUDICIAL MEMBER	VICE-PRESIDENT

Bangalore,
Dated, the 28th April 2026.
TNTS /Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. CIT(A)
4. DR, ITAT, Bangalore
5. PCIT

By order

Assistant Registrar,
ITAT, Bangalore