IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD

BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER

I.T.A. No.1011/Ahd/2026
(Assessment Year: 2016-17)

State Bank of India Currency Administration Cell Gandhinagar, 2nd Floor, GAO-1, Administrative Building, Gandhinagar-382010	Vs.	Income Tax Officer, TDS Ward, Gandhinagar
[PAN No.AHMS21792B]		
(Appellant)	..	**(Respondent)**

I.T.A. No.1044/Ahd/2026
(Assessment Year: 2017-18)

State Bank of India Bhavnagar Branch, Diwanpara Branch, Akshat, Sir Pattani Road, Nr. HCG Hospital, Ghogha Circle, Bhavnagar-364001	Vs.	Deputy Commissioner of Income Tax, TDS, Ahmedabad
[PAN No.AHMS08275B]		
(Appellant)	..	**(Respondent)**

Appellant by :	Shri Lokesh Karia, AR
Respondent by:	Shri Amit Pratap Singh, Sr. DR

Date of Hearing	06.05.2026
Date of Pronouncement	08.05.2026

O R D E R

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

Both appeals have been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short "Ld. CIT(A)"), ADDL/JCIT(A)-2, Siliguri vide orders dated 22.01.2026 & 12.01.2026 passed for A.Y. 2016-17 & 2017-18. Since common facts and issues for consideration are involved for both the appeals before us, both the appeals are being disposed by way of a common order.

2. The assessee has taken the following grounds of appeal:

ITA No. 1011/Ahd/2026 (A.Y. 2016-17)

"In our cases assessing officer has disallowed exemption u/s.10(5) of Income Tax Act, on the base of differences in interpretation of law and treated us as assessee in default and passed order against us u/s. 201(1) and 201(1A) of the Income Tax Act and we filed appeal against said order before CIT (Appeals), which is dismissed and order was issued u/s.250 of the Income Tax Act.

The Kerala High Court has held in a recent judgment that State Bank of India (SBI) cannot be treated as an "Assessee in Default" under section 201 of the Income Tax act for not deducting Tax at Source (TDS) on Leave Travel Concession (LTC) payments, as it was bound by an interim order which prohibited such deduction. The copy of said order is attached herewith.

Therefore against said order u/s. 250 and u/s. 201(1) and 201(1A), we prefer to file appeal before ITAT and furnished facts of the case along with said appeal along with relevant documentary evidences and we demand the withdrawal of the same from your honour by allowing our appeal on the basis of grounds and evidences furnished by us."

ITA No. 1044/Ahd/2026 (A.Y. 2017-18)

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ITA No. 1011/Ahd/2026 (A.Y. 2016-17)

3. The brief facts of the case are that the assessee, State Bank of India Currency Administration Cell, Gandhinagar, was subjected to proceedings under section 201(1) and 201(1A) of the Income-tax Act, 1961 ("the Act") the assessee on the ground that it had failed to deduct tax at source under section 192 of the Act on Leave Fare Concession/Leave Travel Concession (LFC/LTC) granted to certain employees who had undertaken journeys involving a foreign leg during the financial year relevant to Assessment Year 2016-17. During the course of assessment proceedings, the Assessing Officer observed that exemption under section 10(5) of the Act read with Rule 2B of the Income Tax Rules is available only in respect of travel within India and once the employee undertakes travel involving a foreign destination, the exemption ceases to apply. The Assessing Officer relied upon the judgment of the Hon'ble Supreme Court in Civil Appeal No. 8181 of 2022 dated 04.11.2022 in the case of State Bank of India v. Assistant Commissioner of Income Tax reported in [2022] 144 taxmann.com 131 (SC), wherein the Hon'ble Apex Court held that LTC exemption is restricted only to travel from one place in India to another place in India and the moment the journey involves a foreign leg, the exemption under section 10(5) is not available.

4. The assessee before the Assessing Officer contended that the designated place of travel of employees was within India and reimbursement was restricted only to the eligible fare relatable to Indian

travel in accordance with Rule 2B of the Rules. It was further contended that there was no express statutory prohibition against an incidental foreign leg in the course of travel and the bank had acted under a bona fide belief based on prevailing industry practice, IBA guidelines and judicial precedents. The assessee also relied upon interim orders passed by the Hon'ble Madras High Court in the case of All India State Bank Officers Federation vs. State Bank of India, wherein the Hon'ble High Court had specifically directed that LFC reimbursement would not amount to income for the purpose of deduction of tax at source and further clarified that in case the writ petition failed, the liability to pay tax would be on the employees. The assessee submitted that during the subsistence of such interim judicial directions, it was legally restrained from deducting tax at source and any contrary action would have amounted to disobedience of binding judicial orders.

5. The Assessing Officer, however, rejected the submissions of the assessee and held that in view of the final judgment of the Hon'ble Supreme Court dated 04.11.2022, the issue had attained finality against the assessee. The Assessing Officer held that once the employees undertook travel involving a foreign leg, the reimbursement became taxable salary and consequently the assessee was under a statutory obligation under section 192 to deduct tax at source. Accordingly, the assessee was treated as an assessee in default under section 201(1) and demand along with interest under section 201(1A) was raised.

6. Aggrieved by the order of the Assessing Officer, the assessee preferred appeal before the learned CIT(Appeals). The learned CIT(Appeals) passed an order examining the provisions of section 10(5), Rule 2B and the judgment of the Hon'ble Supreme Court in the case of State Bank of India v. ACIT (supra). The learned CIT(Appeals) observed that a conjoint reading of section 10(5) and Rule 2B clearly establishes that exemption is admissible only where travel is undertaken from one place in India to another place in India by the shortest route. The learned CIT(Appeals) held that the moment a foreign leg is involved, the travel ceases to qualify as travel within India and therefore falls outside the scope of exemption under section 10(5) of the Act. The learned CIT(Appeals) reproduced in detail the findings of the Hon'ble Supreme Court, particularly the observations that LTC is intended to promote domestic travel within India and that foreign travel frustrates the very object of the scheme.

7. The learned CIT(Appeals) further analysed the sequence of judicial proceedings before the Hon'ble Madras High Court and the Hon'ble Supreme Court. The learned CIT(Appeals) observed that although interim protection had been granted by the Hon'ble Madras High Court at various stages, there existed certain periods during which no stay operated and during such periods the assessee ought to have deducted tax at source or recovered the amount from employees. The learned CIT(Appeals) held that the obligation to deduct tax is distinct from recovery of tax and once

the legal position stood clarified by the Hon'ble Supreme Court, the assessee could not avoid the consequences under section 201(1) and 201(1A). Reliance was also placed by the learned CIT(Appeals) on the decision of the Chennai Bench of the Tribunal in State Bank of India, Chennai vs. ACIT, TDS, Chennai in ITA No.1465/Chny/2024 dated 27.06.2025, wherein the Tribunal had upheld the action of the Department for periods during which no active stay operated. Accordingly, the learned CIT(Appeals) confirmed the action of the Assessing Officer in treating the assessee as an assessee in default under section 201(1) and in levying consequential interest under section 201(1A), though directions were issued for staying recovery till disposal of proceedings before higher judicial forums and for rectification of computational errors, if any.

8. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

9. We have heard the rival submissions and perused the material available on record. The short controversy before us is not with regard to the merits of exemption under section 10(5) of the Act, which now admittedly stands concluded against the assessee by the judgment of the Hon'ble Supreme Court in State Bank of India v. Assistant Commissioner of Income Tax [2022] 144 taxmann.com 131 (SC).

10. The limited issue before us is whether, in the peculiar facts of the present case, the assessee can be treated as an assessee in default under

section 201(1) of the Act and consequently saddled with interest liability under section 201(1A) for non-deduction of tax at source during the period when binding interim judicial directions of the Hon'ble Madras High Court were operating.

11. We find that this issue is now squarely covered in favour of the assessee by the decision of the Coordinate Bench of Ahmedabad Tribunal in the case of **State Bank of India Bhavnagar Para Branch vs. Income-tax Officer, TDS reported in [2026] 184 taxmann.com 706 (Ahmedabad-Trib.)**. The Coordinate Bench, after considering the judgment of the Hon'ble Supreme Court, the interim orders of the Hon'ble Madras High Court, the decision of the Kerala High Court and the Agra Bench of the Tribunal, held that the assessee-bank could not be treated as an assessee in default under section 201(1) for the relevant period.

12. The relevant observations of the Coordinate Bench are reproduced below:

> *"The contention of the assessee has consistently been that during the year under consideration, it was bound by the interim orders passed by the Hon'ble Madras High Court in All India State Bank Officers Federation v. State Bank of India [2022] 140 taxmann.com 221/447 ITR 559 (Madras), wherein vide order dated 16.02.2015 it was specifically clarified that the LFC payments would not amount to income so as to enable deduction of tax at source and further that if the writ petition was ultimately dismissed, the employees would be liable to pay tax. The assessee has submitted that in view of such binding judicial directions, it could not have deducted tax at source and any such deduction would have amounted to disobedience of the order of the Hon'ble High Court."*
>
> *"We find considerable merit in the aforesaid contention of the assessee. The interim directions of the Hon'ble Madras High Court were in force during the relevant previous year and the assessee, being a party to the proceedings, was duty bound to*

comply with the same. The obligation under section 192 of the Act to deduct tax at source cannot be read in isolation and must yield to binding judicial orders. Therefore, the failure to deduct tax in such circumstances cannot be equated with a default contemplated under section 201(1) of the Act."

13. The Coordinate Bench further relied upon the decision of the Agra Bench of the Tribunal in State Bank of India v. CIT(Appeals) and the judgment of the Hon'ble Kerala High Court in State Bank of India v. CIT. The findings of the Hon'ble Kerala High Court, as reproduced by the Coordinate Bench, are relevant and are reproduced below:

"It is only when the appellant-assessee, after having a liability to deduct tax, fails to do so, the question of invoking Section 201 of the Act and treating it as an 'assessee in default' arises. Here, the Madras High Court found, prima facie, that the amount paid would not be the income of a payee so as to deduct tax. Therefore, we are of the opinion that the provisions of Section 201(1) of the Act are not attracted to the case at hand."

"The appellant-assessee was under an obligation not to deduct tax at source and therefore, the assessee could not be held to be assessee in-default for non-deduction of tax at source on impugned LFC payments."

14. The Ahmedabad Bench thereafter held as under:

"In the present case also, the facts are materially identical. The assessee was operating under the binding interim directions of the Hon'ble Madras High Court during the relevant period and therefore could not have deducted tax at source. The subsequent decision of the Hon'ble Supreme Court, though settling the issue on merits, cannot retrospectively fasten liability under section 201(1) of the Act for a period during which the assessee was acting in compliance with judicial orders."

"We also find force in the argument of the assessee that the scheme of section 201 of the Act itself contemplates that a person can be treated as an assessee in default only when there is a failure to deduct tax in spite of a legal obligation to do so. In the present case, such legal obligation stood eclipsed by the interim directions of the Hon'ble High Court."

"In view of the above discussion, respectfully following the decision of the Hon'ble Kerala High Court in State Bank of India (supra) and the decision of the Co-ordinate Bench in ITA No.514/Agr/2024, we hold that the assessee cannot be treated as an assessee in default under section 201(1) of the Act for the impugned period. Consequently, the interest charged under section 201(1A) also does not survive."

15. We find that the facts of the present case are materially identical to the facts before the Ahmedabad Bench. During the relevant assessment year, the assessee-bank was operating under binding interim directions of the Hon'ble Madras High Court specifically clarifying that LFC payments would not constitute income for TDS purposes. Therefore, the assessee was legally bound to comply with such judicial directions and any deduction of tax contrary thereto would have exposed the assessee to proceedings for contempt of court. In such circumstances, the failure to deduct tax at source cannot be treated as a default contemplated under section 201(1) of the Act.

16. Respectfully following the decision of the Coordinate Bench of Ahmedabad Tribunal in State Bank of India Bhavnagar Para Branch v. ITO, TDS [2026] 184 taxmann.com 706 (Ahmedabad - Trib.), the decision of the Hon'ble Kerala High Court in State Bank of India v. CIT [2025] 180 taxmann.com 837 (Kerala) and the decision of the Agra Bench of the Tribunal in State Bank of India v. CIT(Appeals) [2025] 173 taxmann.com 730 (Agra - Trib.), we hold that the assessee cannot be treated as an assessee in default under section 201(1) of the Act for the impugned period. Consequently, the interest levied under section 201(1A) also does not survive.

17. Accordingly, the Assessing Officer is directed to delete the demand raised under section 201(1) and interest levied under section 201(1A) of the Act.

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

19. Since the facts in **ITA No. 1011/Ahd/2026** are materially similar to facts in **ITA No. 1044/Ahd/2026,** appeal of the assessee is allowed in **ITA No. 1044/Ahd/2026** as well.

20. In the combined result, both the appeals of the assessee are allowed.

This Order is pronounced in the Open Court on	**08/05/2026**

Sd/-	**Sd/-**
(NARENDRA P. SINHA)	**(SIDDHARTHA NAUTIYAL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Ahmedabad; Dated 08/05/2026

TANMAY, Sr. PS ***TRUE COPY***

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad