

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX APPEAL NO.2438 OF 2018

The Commissioner of Income Tax (TDS), Pune .. Appellant
Vs.
Vodafone Cellular Ltd., Pune .. Respondent

Mr. A.K. Saxena, Advocate for the Appellant.

Mr. Jitendra Singh with Ms. Shivali Mhatre and Mr. Rajesh Gaikwad, Advocates for the Respondent.

CORAM : M.S. KARNIK & GAUTAM A. ANKHAD, JJ.

CLOSED FOR ORDERS ON : 26TH FEBRUARY 2026.

PRONOUNCED ON : 5TH MARCH 2026.

PER, GAUTAM A. ANKHAD, J.

1. The present Appeal is filed against the order dated 12th March 2018 passed by the Income Tax Appellate Tribunal, Pune, whereby the Tribunal held that the proceedings initiated by the Assessing Officer under Section 201(1) of the Income Tax Act, 1961 for the first three quarters of Assessment Year 2009–10 are barred by limitation.

2. The Assessee/Respondent filed its TDS Returns for Financial Year 2008–09 as under:

Sr. No.	Period	TDS Return filed on
1	First Quarter of the Financial Year i.e. 01.04.2008 to 30.06.2008	19.07.2008 FY 2008-09
2	Second Quarter of the Financial Year i.e. 01.07.2008 to 30.09.2008	15.09.2008 FY 2008-09
3	Third Quarter of the Financial Year i.e. 01.10.2008 to 31.12.2008	15.01.2009 FY 2008-09
4	Fourth Quarter of the Financial Year i.e. 01.01.2009 to 31.03.2009	15.06.2009 FY 2009-10

3. The order under Section 201(1) of the Act declaring the assessee to be in default was passed on 15th March 2012. Before the Tribunal, it was contended that insofar as the first three quarters are concerned, the limitation prescribed under Section 201(3) had expired. In respect of the fourth quarter, since the TDS Return was filed on 15th June 2009, i.e. in the subsequent financial year, the limitation would have to be computed from the end of that financial year. The Tribunal accepted this contention and held that the proceedings for the first three quarters was held to be time-barred, while those relating to the fourth quarter was held to be within limitation. This finding of limitation for the first three quarters is assailed in the present Appeal.

4. Mr. A.K. Saxena, the learned counsel for the Appellant submitted that the Tribunal committed an error of law. According to him, though TDS Returns are filed quarterly, the liability is to be considered on an annual and cumulative basis and limitation ought not to be computed quarter-wise.

5. On the other hand, Mr. Jitendra Singh, the learned counsel for the Respondent supported the impugned order and relied upon Sections 201(3), 201(1A), 139 of the Act and Rule 31A of the Income Tax Rules to submit that the TDS Returns for each quarter are to be filed as per the due date mentioned in Rule 31A. The TDS Return for the fourth quarter is to be filed in the following financial year. Since the TDS Returns for the first three quarters were filed in financial year 2008–09, the order dated 15th March 2012 was beyond two years from the end of that financial year. However, the Return for the fourth quarter was filed on 15th June 2009, i.e. in financial year 2009–10 and the order dated 15th March 2012 was within two years from the end of that financial year.

6. We have heard the learned counsel for the parties and perused the material on record. We find no infirmity in the impugned order. Section 201(3), as it stood at the relevant time reads as under:

“201(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India at any time after the expiry of -

(i) two years from the end of the financial year in which the statement is filed in a case where the statement referred to in Section 200 has been filed;

(ii)”

7. The said provision stipulates that no order under Section 201(1) shall be passed after the expiry of two years from the end of the financial year in which the TDS statement is filed. The commencement of limitation is thus linked to the filing of the TDS Return. Since, under Rule 31A, TDS statements are mandatorily filed on a quarterly basis, the computation of limitation must necessarily operate quarter-wise. In the present case, the TDS Returns for the first three quarters were filed in financial year 2008–09. The order under Section 201(3), having been passed on 15th June 2012, was beyond two years from the end of that financial year. The Tribunal was therefore justified in directing deletion of the demand pertaining to those quarters. As regards the fourth quarter, the TDS Return was filed in financial year 2009–10 and the order dated 15th March 2012 was within two years from the end of that financial year; the demand for that quarter was rightly sustained. The language of the statute does not prescribe of cumulative or annual computation of limitation as is sought to be argued by the

Appellant. The scheme of TDS compliance under the Act and the Rules treats each quarter as a separate compliance period, with distinct due dates and independent statements. Each filing consequently furnishes a separate starting point for limitation under Section 201(3). The Appellant's contention that limitation must be computed on an annual basis is contrary to both the text and structure of the statutory framework. An assessee cannot be prejudiced by the Assessing Officer's failure to pass orders within the prescribed period. It is well settled that limitation provisions in taxing statutes must be strictly construed and cannot be extended by implication.

8. We find no perversity in the impugned order. For all these reasons, Appeal no.2438 of 2018 is dismissed.

[GAUTAM A. ANKHAD, J.]

[M.S. KARNIK, J.]

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