Solvay Specialities India Private Ltd vs Assistant Commissioner Of Income Tax

[Cites 50, Cited by 0] Gujarat High Court Solvay Specialities India Private Ltd vs Assistant Commissioner Of Income Tax ... on 6 February, 2026 Author: A. S. Supehia Bench: A.S. Supehia NEUTRAL CITATION C/SCA/7905/2024 CAV JUDGMENT DATED: 06/02/2026 undefined Reserved On : 21/01/2026 Pronounced On : 06/02/2026 IN THE HIGH COURT OF GUJARAT AT AHMEDABAD R/SPECIAL CIVIL APPLICATION NO.7905 of 2024 FOR APPROVAL AND SIGNATURE: HONOURABLE MR. JUSTICE A.S. SUPEHIA and HONOURABLE MR. JUSTICE PRANAV TRIVEDI === Approved for Reporting Yes No ✔ === SOLVAY SPECIALITIES INDIA PRIVATE LTD. Versus ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE INT. TXN. VADODARA & ORS. === Appearance: MR. SAURABH SOPARKAR, SR. ADV. WITH MR B S SOPARKAR(6851) for the Petitioner(s) No. 1 MR.VARUN K.PATEL(3802) for the Respondent(s) No. 1 NOTICE SERVED for the Respondent(s) No. 2,3 === CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA and HONOURABLE MR. JUSTICE PRANAV TRIVEDI CAV JUDGMENT (PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. By way of the present writ petition, the petitioner has assailed the order dated 31.03.2024 passed by the Assistant Commissioner of Income Tax Circle Int. Txn, Vadodara - respondent No.1 under Sections 201 and 201(1A) of the Income-tax Act, 1961 (hereinafter referred to as "the Act" for short) for the Assessment Year 2020-21.

2. Brief facts in the present petition are as under: Page 1 of 39 Uploaded by SAJ GEORGE(HC01069) on Sat Feb 07 2026 Downloaded on : Mon Jun 15 06:18:36 IST 2026 NEUTRAL CITATION C/SCA/7905/2024 CAV JUDGMENT DATED: 06/02/2026 undefined

3. During the previous year relevant to Assessment Year 2020-21, the petitioner made payments to several non- residents. The petitioner paid service charges to 'Solvay Speciality Chemicals Asia Pacific PTE Ltd.' (hereinafter referred to as 'Solvay Singapore') on account of services rendered by it as per the agreement dated 1 st January, 2014 entered into between Solvay Singapore and the petitioner. As per the said agreement, Solvay Singapore was to render services in the nature of communication, finance, general management, legal, information technology, etc. to the petitioner. The petitioner did not withhold "Tax Deducted at Source" (hereinafter referred to as "TDS") on the service charges paid to Solvay Singapore.

4. The petitioner e-filed its return of income for the Assessment Year 2020-21 on 14 th February, 2021 declaring total income of Rs. 11,00,30,480/- under the normal provisions of the Act.

5. The return was processed under Section 143(1) of the Act. Subsequently, the case of the petitioner was selected for complete scrutiny assessment under the E-assessment scheme. One of the issues in complete scrutiny was verification of foreign outward remittances. Thereafter, notice dated 22nd January 2022 was issued under Section 142(1) of the Act. In the said notice, the Assessing Officer sought details of all foreign remittances made during the relevant financial year. The Assessing Officer also queried whether TDS was deducted on the foreign remittances or not. Page 2 of 39 Uploaded by SAJ GEORGE(HC01069) on Sat Feb 07 2026 Downloaded on : Mon Jun 15 06:18:36 IST 2026 NEUTRAL CITATION C/SCA/7905/2024 CAV JUDGMENT DATED: 06/02/2026 undefined

6. The petitioner, vide letter dated 03.03.2022, submitted details in respect of all the foreign outward remittances made during the previous year relevant to the Assessment Year 2020-21, including remittances of service charges made to Solvay Singapore. The said details contained Form Nos.15CA and 15CB and also a note on deduction / non-deduction of TDS in respect of payments made to foreign entities. The note contained entity-wise details and the purpose of remittances. The said note also contained detailed submissions explaining that the service charges paid to Solvay Singapore did not fall within the definition of "fees for technical services" as defined in Article 12(4) of the India-Singapore DTAA (Double Taxation Avoidance Agreement); hence, the payments to Solvay Singapore did not include any sums chargeable to tax in India, and therefore, no TDS was deducted on the service charges paid to Solvay Singapore.

7. The Assessing Officer further issued show cause notices dated 11.07.2023 and 09.08.2023 seeking further details of service charges paid to foreign parties.

8. The petitioner, vide letter dated 12.08.2023, furnished further details of service charges paid to the foreign entities and also submitted sample invoice copies. The petitioner also submitted details of TDS on payments made to specified persons covered under Section 40A(2)(b) of the Act.

9. The Assessing Officer passed the draft assessment order under Section 144C of the Act on 28.09.2023 and made upward variations in respect of transfer pricing under Section Page 3 of 39 Uploaded by SAJ GEORGE(HC01069) on Sat Feb 07 2026 Downloaded on : Mon Jun 15 06:18:36 IST 2026 NEUTRAL CITATION C/SCA/7905/2024 CAV JUDGMENT DATED: 06/02/2026 undefined 92CA(3) of Rs.189,17,27,995/-, after the order dated 30.07.2023 passed by the Transfer Pricing Officer (TPO) pursuant to the reference made to compute the arm's length price under Section 92CA(1) of the Act.

10. Against the said draft assessment order, the petitioner filed objections before the Dispute Resolution Panel (hereinafter referred to as "DRP" for short). The DRP partly allowed the objections of the petitioner vide order dated 21.06.2024 and directed respondent No.2 to give effect to the findings and directions in terms of the provisions of Section 144C(13) of the Income-tax Act. Subsequently, vide order dated 24.07.2024, respondent No.2 passed the final assessment order under Section 143(3) read with Section 144C(13) read with Section 144B of the Income-tax Act.

11. It appears that during the Scrutiny proceedings under Section 143(3) of the Act, the Assessing Officer (TDS)- respondent No.1, issued a notice dated 16.08.2022 under Section 133(6) of the Act seeking details of remittances made to Solvay Singapore and Bruker Switzerland AG.

12. The petitioner, vide reply dated 22.08.2022, submitted the complete details called for, including the agreements with each of the parties.

13. Respondent No.1 issued two notices dated 09.02.2023 and 17.07.2023 seeking certain details and clarifications from the petitioner.

14. The petitioner, vide reply dated 16.02.2023, detailed the nature of services provided by Solvay Singapore and requested for a personal hearing. The petitioner, vide reply dated 24.07.2023, reiterated the submissions made earlier and filed further details.

15. The Assessing Officer (TDS) - respondent No.1 issued a notice dated 27.03.2024 seeking an explanation as to why TDS was not deducted on service charges paid to Solvay Singapore when the payments allegedly fell within the definition of "fees for technical services" as defined under Article 12(4) of the India-Singapore DTAA.

16. The petitioner, vide letter dated 30.03.2024, filed a detailed response explaining why no TDS was deducted on payment of service charges made to Solvay Singapore.

17. Respondent No.1, thereafter passed the order dated 31.03.2024 under Sections 201 and 201(1A) of the Act, wherein he held that the service charges paid to Solvay Singapore are in the nature of "fees for technical services" as per Article 12(4) of the India-Singapore DTAA, and hence TDS was required to be deducted under Section 195 of the Act. Since the petitioner had not deducted TDS on the payments, respondent No.1 computed the TDS liability of the petitioner along with interest thereon in the impugned order SUBMISSIONS ON BEHALF OF THE PETITIONER :

18. Learned Senior Advocate Mr.Saurabh Soparkar, assisted by learned advocate Mr.B.S.Soparkar, for the petitioner has made the following submissions : a) That the service charges paid to Solvay Singapore were already examined in detail by the Assessing Officer during the scrutiny proceedings under Section 143(3) of the Act and no disallowance under Section 40(a)(i) of the Act was made on the issue of foreign remittances and deduction of TDS at the time of scrutiny. After examining the issue threadbare, the Assessing Officer held that only two international transactions (Latvia and Germany), where TDS was not deducted, attracted disallowance under Section 40(a)(i) of the Act; in the remaining cases, the TDS was not required to be deducted. b) That an inquiry into transactions of the same nature was made in earlier years as well, and the Assessing Officer found the submission/position of the assessee to be correct in law, and no disallowance under Section 40(a) (i) of the Act was made in earlier years also, as stated hereinabove, hence the impugned order dated 31.03.2024 passed by Assessing Officer (TDS) holding contrary, is required to be quashed. c) While placing reliance on the provisions of Sections 144C(5), 144C(6), 144C(7), 144C(8) and Explanation-1 of the Act, it is submitted that since the Dispute Resolution Panel (DRP) was also conscious of the issue of deduction of TDS from non-residents and no orders were passed in this regard, the Assessing Officer (TDS) cannot exercise powers under Section 201 of the Act. The DRP has also not made any further inquiry or enhancement of income on this issue. The final assessment order was passed noting the inquiry into the issue of foreign remittances made, but no disallowance of expenses under Section 40(a)(i) of the Act was made. d) It is thus submitted that since the direction/order issued by the DRP is binding on the Assessing Officer, as provided under Section 144C(10) of the Act, the Assessing Officer (TDS), being a subordinate officer to the DRP, cannot pass the impugned order under Sections 201 and 201(1A) of the Act in contradiction to the findings of the DRP. It is submitted that although the order of the DRP does not explicitly deal with the issue relating to deduction of TDS while making foreign remittances, the said issue is very much part of the matter arising out of the assessment proceedings. Thus, respondent No.1 cannot ignore the directions of the DRP and pass the impugned order under Sections 201(1) and 201(1A) of the Act which is contrary to the findings of the DRP. In support of his submissions, learned Senior Counsel Mr. Soparkar has placed reliance on the judgment of the Supreme Court in the case of Commissioner of Income tax, New Delhi vs. Eli Lilly & Co. (India) (P.) Ltd., [2009] 178 Taxman 505 (SC). e) That respondent No.1, who is either equivalent or junior to the assessment wing under the faceless assessment scheme, cannot review the order passed by the assessment wing. Under the scheme of the Income-tax Act, 1961, an Assessment Order once passed can be disturbed only by a higher authority in revision or by the same officer by way of rectification or reopening of the case. In the present case, neither of the above has happened. Respondent No.1 has, in effect, reviewed the order passed by the assessment wing, which is wholly without jurisdiction. f) That, Section 40(a)(i) of the Act forms part of Chapter IV, which deals with computation of total income, whereas Section 201 of the Act forms part of Chapter XVII, which deals with collection and recovery of tax. In taxation, collection must be subsequent to charge and computation. If a sum does not form part of the computation of total income, there cannot be any collection thereof. Reliance is placed on the decision of the Supreme Court in the case of Assistant Commissioner of Central Excise, Calcutta Division v. National Tobacco Company of India Ltd. (1972), 2 S.C.C. 560. g) It is submitted that even on merits, the order passed by respondent No.1 under Sections 201(1) and 201(1A) of the Act is bad and illegal. The petitioner has, time and again [in Assessment Years 2017-18, 2018-19 as well as 2020-21], made detailed submissions explaining how the transaction is not taxable in the hands of the recipient as fees for technical services due to presence of the "make available" clause in the India-Singapore Double Taxation Avoidance Agreement (DTAA). Once the transaction does not result in taxable income in the hands of the recipient, there is no question of deducting any tax at source. Reliance is placed on the following decisions: (1) Director of Income Tax (International Taxation, Bangalore vs. Sun Microsystems India (P.) Ltd., [2014] 48 taxmann.com 93 (Karnataka); (2) Technip Singapore Pte. Ltd vs. Director of Income Tax, [2016] 70 taxmann.com 233 (Delhi); and (3) Commissioner of Income Tax (International Taxation)-1 vs. Bio-Rad Laboratories (Singapore) Pte. Ltd., 459 ITR 5 (Del) (Paragraph Nos.13 - 16). h) That, the liability cast upon the assessee to deduct TDS is provided under Section 195 of the Act. It is further submitted that if a default is committed in deducting TDS under Section 195 of the Act i.e. if the payments made to the non-residents are chargeable to tax and no TDS is deducted thereon, there would be two consequences : (i) the assessee would not be allowed deduction of expenditure under Section 40(a)(i) of the Act in respect of such payments; and (ii) the assessee would be deemed to be an "assessee in default" in accordance with the provisions of Section 201 of the Act. In the present case, the Assessing Officer in the scrutiny proceedings has held that the payments made to Solvay Singapore are not in the nature of "fees for technical services" as defined in Article 12(4) of the India- Singapore DTAA and, hence, are not chargeable to tax in India. In view of the same, the petitioner is not liable to deduct TDS and there is no default under Section 195 of

undefined the Act. Learned Senior Counsel Mr.Soparkar further submitted that having held that no TDS is required to be deducted under Section 195 of the Act, the Assessing Officer did not make any disallowance under Section 40(a)(i) of the Act. i) While placing reliance on the judgment of the Division Bench of this Court in the case of Gujarat Power Corpn. Ltd. vs. Assistant Commissioner of Income-tax, [2012] 26 taxmann.com 51 (Guj.), learned Senior Counsel Mr.Soparkar submitted that if the Assessing Officer does not give any reason for several claims and chooses not to reject the claim of the assessee after thorough scrutiny, it can be said that the Assessing Officer has form an opinion on such claim by applying his mind and it can be said that he was convinced about the validity of the claim and accordingly, his formation of opinion is thus complete. Mr. Soparkar submitted that merely because the Assessing Officer does not choose to assign any reason in the Assessment Order, which is done in the present case by the Assessing Officer, in the initial Assessment Order, would not alter the position and hence, the TDS Officer cannot exercise the power by invoking Section 201 of the Act. j) By making the foregoing submissions, it is urged that the writ petition be allowed by quashing and setting aside the impugned action. SUBMISSIONS ON BEHALF OF THE RESPONDENT-REVENUE :

19. Opposing the present petition and the aforesaid submissions, learned Senior Standing Counsel Mr.Varun K. Patel has raised the following submissions: a) It is submitted that the present writ petition under Article 226 of the Constitution of India, challenging the order passed under Sections 201(1) and 201(1A) of the Act, does not deserve to be entertained on the ground of availability of an alternative efficacious remedy of a statutory appeal under Section 246 of the Act before the Commissioner of Income- tax (Appeals). Reliance is placed on the following decisions: (1) Hindustan Unilever Ltd. Vs. DCIT (International Taxation), [2024] 166, Taxmann.com 660 (Bombay). (Paragraph Nos.1, 5, 7 and 21 to 24); and (2) State of Maharashtra and others Vs. Greatship (India) Ltd., (2022) 17 S.C.C. 332, Paragraph Nos.15 and 16. b) That the proceedings under Section 201 of the Act for verification of Form No.15CA (information to be furnished for payment to a non-resident/foreign company as per Rule 37BB of the Income-tax Rules, 1962) are independent of the assessment proceedings under Section 143(3) of the Act, and the findings in one proceeding would not automatically bind the other. It is submitted that the scope and purpose of Section 201 of the Act is confined to examining the assessee's obligation to deduct and deposit the tax at source in accordance with the provisions of Chapter XVII-B of the Act, whereas assessment under Section 143(3) of the Act pertains to computation of total income and determination of tax liability thereon. Therefore, even if no disallowance under Section 40 (a)(i) is made in the scrutiny assessment, it does not preclude initiation or conclusion of proceedings under Section 201 of the Act where failure to deduct or deposit tax at source is established on the basis of evidence available on record. c) It is submitted that the provisions of Sections 201(1) and/or 201(1A) of the Act do not provide for any exemption in cases where scrutiny assessment under Section 143(3) has been completed and no disallowance was made under Section 40(a)(i) of the Act. It is further submitted that, in the absence of any specific stipulation restricting the applicability of the provision of Section 201 of the Act to cases where no disallowance under Section 40(a)(i) of the Act is made during the course of assessment proceedings under Chapter XIV of the Act, the same cannot be read into the provisions of Sections 201(1) and 201(1A) of the Act for challenging the impugned order, which is otherwise just, proper, legal, and well within the jurisdiction of the TDS Assessing Officer. d) It is submitted that in the present case, both orders have been passed by different Income-tax Authorities in accordance with the relevant provisions of the Act, and accordingly, both Income-tax Authorities can have independent views based on the documents available on record before them. Further, there is nothing on record to show that all the evidence and inquiries relating to the issue concerned in the present case are the same in both proceedings. e) Regarding the petitioner's contention that the Assessing Officer and the Dispute Resolution Panel (DRP), by not making any disallowance under Section 40(a)(i) of the Act, have formed an opinion accepting the petitioner's contentions justifying non-deduction of TDS on the payments made to the group company, Solvay Singapore, it is submitted that during the course of scrutiny assessment proceedings, the Assessing Officer had raised general queries regarding foreign remittances and TDS thereon, and no specific notice/query for making disallowance under Section 40(a)(i) of the Act qua foreign remittances was raised during the scrutiny assessment proceedings. Hence, in the absence of such specific notice/query, it cannot be said that the Assessing Officer, by not making any disallowance under Section 40(a)(i) of the Act, has formed an opinion accepting the petitioner's contentions justifying non-deduction of TDS on the payments concerned in the present case. Reliance is placed on the following decisions : (1) Gala Gymkhana (P) Ltd., vs. ACIT, [2012] 27 Taxmann.com 294 (Gujarat); and (2) Gruh Finance Ltd. vs. JCIT, [2002] 123 Taxman 196 (Gujarat). f) It is submitted that, though sufficient opportunities were granted, the petitioner failed to discharge its onus of furnishing complete and accurate particulars regarding the invoice-wise exact nature of services rendered by the non-resident service provider. It is submitted that, as per the provisions of Section 201(1) read with Section 201(1A) of the Act, the onus lies upon the deductor to substantiate that the payment made to a non-resident is not chargeable to tax in India by furnishing complete and accurate particulars of the nature of services, supported by documentary evidence. However, despite being afforded multiple opportunities vide notices dated 09.02.2023, 17.07.2023, and 27.03.2024, the assessee failed to provide invoice-wise exact particulars of the nature of services rendered by the non-resident service provider and merely furnished repetitive and generic descriptions reproducing the broad categories mentioned in the Functional Service Agreement dated 01.01.2014, without specifying the actual work performed against each invoice. Further, several invoices clubbed multiple services rendered on different dates, making it impossible to ascertain the precise nature of each service, which is in contravention of Para 3.1 of Article 3 of the said agreement, which specifically requires providing sufficient details to enable compliance with tax requirements, including withholding of taxes. It is submitted that, in the absence of such specific details, the payments are liable to be treated as "fees for technical services" within the meaning of Explanation 2 to Section 9(1)(vii) of the Act, and the same would fall within the definition under Article 12(4) of the India-Singapore DTAA, as the services satisfy the "make available" clause. It is thus submitted that the assessee, having failed to deduct tax at source on such payments, is to be treated as an assessee in default under Section 201(1) of the Act and is liable to interest under Section 201(1A) of the Act. It is submitted that adequate opportunities were granted to the petitioner and detailed rebuttals to the assessee's submissions have been recorded in the impugned order. It is, therefore, submitted that no relief deserves to be granted to the petitioner even on merits and equity. It is relevant to submit that no specific inquiry was made in this regard during the scrutiny assessment proceedings. g) Regarding the petitioner's contention that no disallowance under Section 40(a)(i) of the Act was made in the assessment orders for earlier A.Ys. 2017-18 and 2018-19, it is submitted that it is settled law that the principle of res judicata does not apply to income-tax proceedings. In any case, there is nothing on record to indicate that the foreign remittances and services availed therefrom by the assessee in the present case are the same as those in

the earlier A.Y. 2018-19 and that no disallowance under Section 40(a)(i) of the Act was made in that year after due inquiry. It is further submitted that, as stated in the affidavit in reply, as per the records of the office of respondent No.1, the Financial Year (F.Y.) 2019-20, relevant to the Assessment Year (A.Y.) 2020-21, is the first year in which verification of Form No. 15CA was undertaken in the case of the petitioner. Prior to F.Y. 2019-20 (relevant to A.Y. 2020-21), the data of Form No. 15CA in the petitioner's case was never submitted for verification. ANALYSIS AND OPINION:

20. We have heard learned Senior Counsel Mr. Saurabh Soparkar, assisted by learned advocate Mr. B.S. Soparkar, for the petitioner, and learned Senior Standing Counsel Mr. Varun Patel, at length.

21. The following relevant facts emerge from the pleadings and the documents on record: RELEVANT DATES OF PROCEEDINGS UNDER SECTION 143(3) : a) The petitioner is a Private Limited Company engaged in the business of manufacturing monomers and polymers. The petitioner paid service charges to Solvay Specialty Chemicals Asia Pacific Pte. Ltd. (Solvay Singapore), a non-resident entity, on the basis of an agreement dated 01.01.2014. As per the said agreement, Solvay Singapore was to render services in the nature of communication, finance, general management & GPA, human resources, legal opinion, technology, etc. b) The petitioner e-filed its return of income for Assessment Year 2020-21 on 14.02.2021, declaring total income of Rs.11,00,30,480/-. c) The return of income was selected for complete scrutiny, and accordingly, the Assessing Officer sought details of foreign remittances by issuing a notice dated 22.01.2022 under Section 142(1) of the Act. d) The petitioner, vide its detailed reply dated 03.03.2022, furnished a complete break-up of foreign entities, including Solvay Singapore. e) The Assessing Officer further issued notices dated 11.07.2023 and 09.08.2023 seeking details of TDS deduction on service charges paid to foreign entities. f) The petitioner, vide its reply dated 12.08.2023, furnished further details of TDS made to specified persons under Section 40A(2)(b) of the Act. g) The Assessing Officer passed the draft assessment order under Section 144C of the Act on 28.09.2023, making upward variations in respect of transfer pricing amounting to Rs.189,17,27,995/-, in view of the order dated 30.07.2023 passed by the Transfer Pricing Officer under Section 92CA(3) of the Act, pursuant to the reference made to him to compute the arm's length price. h) The petitioner filed objections against the proposed variation before the Dispute Resolution Panel. i) The Dispute Resolution Panel, vide its order dated 21.06.2024, partly allowed the objections and issued directions to the Assessing Officer under Section 144C(13) of the Act to give effect thereto. j) On 24.07.2024, the Assessing Officer passed the final assessment order under Section 143(3) read with Section 144C(13) and Section 144B of the Act, assessing the total income at Rs.135.15 crores.

22. RELEVANT DATES OF PROCEEDINGS UNDER SECTION 201. a) During the foregoing assessment proceedings under Section 143 of the Act, a notice under Section 133(6) dated 16.08.2022 was issued by the Assessing Officer (TDS), seeking details of remittances made to Solvay Singapore and Bruker Switzerland AG. b) The petitioner replied to the same on 22.08.2022. c) Thereafter, notices under Section 201 of the Act seeking details and clarification were issued by the Assessing Officer (TDS) on 09.02.2023 and 17.07.2023. d) The petitioner furnished the requisite details on 16.02.2023 and 24.07.2023. e) A further notice dated 27.03.2024 was issued for penalty proceedings, calling upon the petitioner to furnish an explanation. The said notice specifically mentioned that, upon verification of the invoices raised by the remitting company in respect of which remittances were made, the exact nature of services could not be verified. f) The petitioner again filed a detailed explanation on 30.03.2024, furnishing particulars of the services rendered. g) The Assessing Officer (TDS) passed the impugned order dated 31.03.2024 under Sections 201(1) and 201(1A) of the Act, holding that the service charges paid to Solvay Singapore are in the nature of "fees for technical services" as per Article 12(4) of the India-Singapore DTAA, and that tax was therefore required to be deducted at source under Section 195 of the Act. ASPECT OF INTERACTION OF POWER BY ASSESSING OFFICER U/S 143(3) AND ASSESSING OFFICER(TDS) U/S 201 OF THE ACT.

23. Keeping in mind the aforementioned facts and the impugned order, it would be necessary to examine the powers of the Assessing Officer under Sections 142 and 143 of the Act and those of the Assessing Officer (TDS) under Section 201 of the Act.

24. Thus, the question which falls for deliberation before this Court, at this stage, is whether the Assessing Officer (TDS) can exercise his jurisdiction under Section 201 of the Act of holding the petitioner to be an "assessee in default" after the assessment order passed under Section 143(3) of the Act ?

25. The scrutiny assessment proceedings under Section 143(3) of the Act falls under Chapter XIV of the Act. The said Chapter prescribes the procedure for detailed investigation to ensure that the assessee has fully disclosed its income and that no income has escaped assessment. The limitation prescribed for such proceedings is twelve months from the end of the assessment year in which the income was first assessable. Section 201 of the Act, on the other hand, is contained in Chapter XVII (Collection and Recovery of Tax) of the Act, which is dedicated to tax deduction at source. Section 201 of the Act, deals with the consequences of failure to deduct tax at source or failure to deposit the same after deduction. The scope and purpose of Section 201 of the Act are confined to examining the assessee's obligation to deduct and deposit tax at source in accordance with the provisions of Chapter XVII-B of the Act, whereas assessment under Section 143(3) of the Act pertains to computation of total income and determination of tax liability thereon. For attracting the provision of Section 201 of the Act, the assessee must be a person who has failed to deduct or pay TDS and is, therefore, deemed to be an "assessee in default". The consequences of such failure include mandatory interest under Section 201(1A) of the Act and penalty under Section 221 of the Act. The limitation prescribed for these proceedings also differs. Thus, while a scrutiny assessment may trigger action under Section 201, it is not essential that merely because the Assessing Officer failed to notice any incongruity relating to TDS, the TDS Officer would be precluded from invoking proceedings under Section 201 of the Act. Both proceedings are independent in nature.

26. The Assessing Officer, albeit is empowered to verify the details furnished in Form No. 15CA and Form No. 15CB containing information required to be furnished for payments made to a non-resident/foreign company as per Rule 37BB of the Income Tax Rules, 1962, the opinion formed by the Assessing Officer under Section

143(3) of the Act cannot bind or prevail upon the Assessing Officer (TDS) while examining the obligation of TDS deduction under Section 195 read with Section 201 of the Act. Therefore, even if no disallowance under Section 40(a)(i) of the Act is made in the scrutiny assessment, the same does not preclude initiation or conclusion of proceedings under Section 201 of the Act where failure to deduct or deposit tax at source is established on the basis of evidence available on record. The provisions of Sections 201(1) and/or 201(1A) of the Act do not stipulate any exemption for cases where scrutiny assessment under Section 143(3) of the Act has been completed and no disallowance was made under Section 40(a)(i) of the Act. In the absence of any specific provision restricting the applicability of Section 201 of the Act to cases where no disallowance under Section 40(a)(i) of the Act is made during the course of assessment proceedings under Chapter XIV of the Act, such a restriction cannot be read into Sections 201(1) and 201(1A) of the Act. There may be cases where the Assessing Officer, during scrutiny proceedings, has committed an error in not making a disallowance, and such omission may result in non-deduction of tax at source. If such assessment is treated as final, it would be detrimental to the interest of the revenue. It is trite that the power under Section 263 of the Act can be exercised by the Commissioner of Income Tax if the Assessing Officer, after scrutiny, fails to make any addition or disallowance. However, in the absence of such exercise having been undertaken, the same cannot ipso facto dilute the powers of the Assessing Officer (TDS) under Section 201 of the Act.

27. Thus, while examining the assessment proceedings, the Assessing Officer (TDS) can always exercise his jurisdiction relating to tax deducted at source and arrive at his own conclusion, independent of the view taken by the Assessing Officer who has passed the scrutiny assessment order under Section 143(3) of the Act. We, therefore, do not find substance in the argument advanced by the learned counsel for the petitioner that the Assessing Officer (TDS) cannot take a view different from that of the Assessing Officer who passed the order under Section 143(3) of the Act while exercising powers under Section 201 of the Act. The Supreme Court, in the case of Eli Lilly & Co. (supra), while holding that the Income-tax Act, 1961 is an integrated code in which the computation machinery cannot be segregated from the collection and recovery machinery, has also observed that it cannot be stated as a broad proposition that the TDS provisions, being machinery provisions for collection and recovery of tax, are independent of the charging provisions which determine assessability in the hands of the assessee. The said legal principle, as enunciated by the Apex Court, does not apply to the present case. Here, the issue for consideration is the exercise of powers by different Assessing Officers under different Chapters of the Act. The judgment does not suggest that the opinion of the Assessing Officer in scrutiny proceedings under Section 143(3) of the Act would be binding on the Assessing Officer (TDS), nor does it preclude the latter from exercising powers and jurisdiction conferred exclusively under Section 201 of the Act to examine non-compliance with the provisions of Section 195 of the Act on the ground that the computation machinery cannot be segregated from the collection and recovery machinery. Thus, the question is answered in favour of the revenue. EFFECT OF THE ORDER PASSED BY DRP UNDER SECTION 144C OF THE ACT ON THE ORDER PASSED UNDER SECTION 201 OF THE ACT BY THE AO (TDS) :

28. The Dispute Resolution Panel finds place in the provisions of Section 144C of the Act. The relevant provisions prescribing the scope of its powers are as under: "Section 144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee. (2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,-- (a) file his acceptance of the variations to the Assessing Officer; or (b) file his objections, if any, to such variation with,-- (i) the Dispute Resolution Panel; and (ii) the Assessing Officer. (3) xxx xxx xxx (4) xxx xxx xxx (5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment. (6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:-- (a) draft order; (b) objections filed by the assessee; (c) evidence furnished by the assessee; (d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority; (e) records relating to the draft order; (f) evidence collected by, or caused to be collected by, it; and (g) result of any enquiry made by, or caused to be made by, it. (7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),-- (a) make such further enquiry, as it thinks fit; or (b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it. (8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order. Explanation.--For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee. (9) xxx xxx xxx (10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer."

29. The Dispute Resolution Panel, which finds place in the provisions of Section 144C of the Act, comprises three officers, as mentioned in sub-section (15) of Section 144C of the Act, who are Principal Commissioners or Commissioners of Income-tax constituted by the Board.

30. The DRP has wide powers to examine the entire assessment over and above the draft assessment order. Sub- section (5) of Section 144C of the Act empowers the DRP to issue any directions on the objections received to the draft assessment order, "as it thinks fit", for the guidance of the Assessing Officer to enable him to complete the assessment, after considering all the facets as prescribed in sub-section (6) of Section 144C of the Act, which includes the record of the draft assessment order. Sub-section (7) of Section 144C of the Act further empowers the DRP to make such further inquiry as it thinks fit or to cause any further inquiry to be made by "any income-tax authority" and to direct such authority to report the result thereof. Sub-section (8) of Section 144C of the Act confers powers upon the DRP to confirm, reduce, or enhance the variations proposed in the draft order; however, it cannot set aside any proposed variation or issue any direction under sub-section (5) of Section 144C of the Act for further inquiry and passing of the assessment order.

31. The Explanation to sub-section (8) of Section 144C of the Act assumes significance. The said Explanation, embedded with a non obstante clause, authorises and empowers the DRP to exercise ancillary powers, over and above the power to enhance the variation, including the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding the fact

that such matter was raised or not by the eligible assessee. Sub-section (10) of Section 144C of the Act stipulates that every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer, which clearly depicts its authority over the Assessing Officer.

32. The Dispute Resolution Panel examines the draft order passed by the Assessing Officer under the provisions of Section 144C of the Act. In the present case, the Assessing Officer passed the draft assessment order on 28.09.2023, wherein he neither formed any opinion nor made any disallowance under Section 40(a)(i) of the Act in respect of payments made to the Singapore entity on which tax was not deducted at source.

33. The case of the respective parties primarily hinges on this draft assessment order. A perusal of the draft assessment order dated 28.09.2023, passed under Section 144C(1) of the Act, shows that it refers to foreign outward remittances. It is recorded in the draft assessment order that "the case was selected for complete scrutiny assessment" under the e- Assessment Scheme.

34. After recording the entire reply of the petitioner- assessee, including details of the services rendered by the Singapore entity, the Assessing Officer did not express any opinion relating to compliance with the TDS provisions and remained silent on the said issue. Ultimately, the draft assessment order was passed, proposing variation only in respect of transfer pricing adjustment under Section 92CA(3) of the Act to the tune of Rs.1,89,17,27,995/-.

35. Thus, the Assessing Officer was cognizant of the issue of non-deduction of TDS, and the scrutiny assessment was undertaken on various aspects, pursuant to which the petitioner was called upon to supply the requisite details. The petitioner, in detail, vide its reply dated 03.03.2022, explained the non-deduction of TDS by highlighting the nature of services rendered by the foreign entities. The petitioner also explained the nature and dates of remittances made to Solvay Singapore, which, according to the petitioner, did not attract deduction of TDS.

36. It is a settled legal position that if the Assessing Officer, while undertaking assessment proceedings, raises specific queries and the assessee responds thereto, and thereafter, while passing the assessment order, the Assessing Officer does not record any comment or opinion on such issue, it cannot be said that the Assessing Officer has not applied his/her mind to the issue raised in the specific queries. Thus, it can safely be presumed that the Assessing Officer, in the scrutiny proceedings under Section 143(3) of the Act, after raising specific queries on deduction of TDS and upon the petitioner furnishing all relevant material, including Form Nos. 15CA and 15CB, has applied his/her mind. Merely because no opinion is expressly recorded on the issue of deduction of TDS, it cannot be concluded or assumed that the Assessing Officer ignored the same. Ultimately, the Assessing Officer in his draft assessment order has confined the assessment to transfer pricing.

37. The draft assessment order dated 28.09.2023 was passed after considering the order dated 30.07.2023 passed by the Transfer Pricing Officer under Section 92CA(3) of the Act, pursuant to the reference made to him for computation of the arm's length price. The petitioner raised objections against the upward variation before the DRP under Section 144C(2)(b) of the Act. Thus, the DRP also confined itself to the issue arising out of the draft assessment order relating to transfer pricing.

38. The DRP, while examining the upward variations in respect of transfer pricing under Section 92CA(3) of the Act as proposed by the Assessing Officer in the draft assessment order dated 28.09.2023 passed under Section 144C (1) of the Act, neither issued any directions guiding the Assessing Officer nor exercised its power to consider the issue of TDS, nor issued any directions in that regard. As held hereinabove, the non-formation of any opinion by the Assessing Officer in scrutiny proceedings, after calling upon the petitioner to submit details of TDS and break-up of foreign remittances, can be treated as scrutiny of the issue of TDS. However, the DRP did not examine the issue of TDS and confined itself to the draft assessment order relating to the upward variation in transfer pricing. The question, therefore, is whether the discernment adopted by the Assessing Officer in scrutiny proceedings of having examined the issue of TDS without expressing any opinion - can be extended to the DRP. In our opinion, such perception cannot be extended to the DRP, which is a collegium comprising three members and is vested with wide powers to examine the entire record of assessment proceedings and to issue appropriate directions to the Assessing Officer. It cannot be affirmatively held that merely because the DRP did not examine the issue of TDS, it must be deemed to have stepped into the shoes of the Assessing Officer and formed an opinion on non-deduction of TDS, thereby impacting the order passed by the Assessing Officer (TDS) under Section 201 of the Act. Such an approach would have a deleterious effect on the interests of the revenue.

39. We cannot be oblivious to the fact that the order of the DRP is premised on the objections raised by the petitioner against the draft assessment order questioning the upward variation relating to transfer pricing, which is unrelated to the provisions of Section 40(a)(i) and Section 195 of the Act. The DRP examined the upward variations based on the objections raised by the petitioner and did not examine the issue of non- deduction of TDS concerning the Solvay Singapore. It appears that no effort was made by the Revenue to invite the attention of the DRP to the issue of TDS, possibly due to parallel proceedings pending before the Assessing Officer (TDS). The contours of the powers of the Assessing Officer under Section 143(3) of the Act and the Assessing Officer (TDS) under Section 201 of the Act are distinct. The DRP is empowered to examine "any matter" arising out of the assessment proceedings "relating to the draft order", irrespective of whether such issue or matter was raised by the eligible assessee, as defined under Section 144C(15)(b) of the Act. It was open to the DRP to examine all material as contemplated under clauses (b), (c), and (e) of sub-section (6) of Section 144C of the Act, which include the objections, evidence furnished by the assessee, and the records of the draft assessment order. However, the DRP did not venture into aspects relating to TDS, considering that the objections raised by the petitioner were confined to the issue of upward variation in transfer pricing, and precisely so, since the Assessing Officer had not formed any opinion.

40. The order of the DRP is subsequent to the order passed by the Assessing Officer (TDS). Even if it is assumed that the order of the DRP preceded the order passed under Section 201 of the Act, the same would not have any consequence on the jurisdiction of the Assessing Officer (TDS), unless the DRP had formed a positive opinion on the issue of TDS and issued directions to the Assessing Officer regarding non-deduction. Hence, in the present set of facts, we are of the opinion that the Assessing Officer (TDS) has precisely exercised his

jurisdiction and powers for scrutinizing the aspect of compliance with the provisions of Section 40(a)(i) read with Section 195 of the Act, and the subsequent order passed by the DRP will have no bearing on the order of the Assessing Officer (TDS).

41. In the present case, it appears that there was a lack of coordination between the Assessing Officer who conducted the scrutiny assessment and the Assessing Officer (TDS), and both proceedings were conducted simultaneously. On an overall appreciation of the statutory scheme under Sections 143(3), 195, and 201 of the Act, we are of the opinion that the Assessing Officers operated in different spheres of their respective jurisdictions. Merely because the assessment order passed by the Assessing Officer under Section 143(3) of the Act travelled to the DRP and culminated in an order, the same cannot, in any manner, impact the exclusive jurisdiction of the Assessing Officer (TDS) under Section 201 of the Act, unless the issue of TDS was assertively dealt and answered by DRP. ANALYSIS OF THE IMPUGNED ORDER PASSED BY THE AO (TDS) DATED 31.03.2024.

42. Having discussed the contours of the powers of the respective Assessing Officers and the DRP, we shall now endeavour to examine whether the Assessing Officer (TDS) has validly passed the impugned order dated 31.03.2024 under Section 201 of the Act.

43. Upon close scrutiny of the impugned order dated 31.03.2024 passed by the Assessing Officer (TDS), we find that the same is required to be quashed and set aside for the following reasons : 43.1 The petitioner was issued notices dated 09.02.2023, 17.07.2023, and 27.03.2024 by the Assessing Officer (TDS). In response thereto, the petitioner, vide replies dated 16.02.2023, 24.07.2023, and the final reply dated 30.03.2024, supplied all requisite details, including copies of Form-15CA and Form-15CB, along with invoices and details of customers and clients. 43.2 The petitioner also made detailed submissions clarifying its stand regarding non-deduction of TDS. It was submitted that in the earlier assessment proceedings for A.Y. 2018-19, after considering the India-Singapore DTAA and the definition of "fees for technical services" (FTS), the Assessing Officer, upon threadbare examination, had held that only two international transactions (Latvia and Germany), where TDS was not deducted, warranted disallowance under Section 40(a)(i) of the Act, whereas in the remaining cases, including payments made to Solvay Singapore under the same transaction, no TDS was required to be deducted. Thus, it is not in dispute, and from the pleadings it stands established, that in respect of Solvay Singapore, in view of the same agreement dated 01.01.2014 and the applicable provisions of the DTAA for A.Y. 2018-19, no disallowance was made under the "make available" clause, by holding that the services rendered did not constitute FTS. 43.3 While passing the impugned order, passing the impugned order, the Assessing Officer (TDS) brushed aside the aforesaid submissions by observing that there is no restriction on passing an order under Sections 201(1) and 201(1A) of the Act even after an assessment order under Section 143(3) of the Act has been passed. It is trite that the principle of res judicata does not apply to assessment proceedings (M.M. Ipoh & Ors. vs. Commissioner of Income- tax, Madras, (1968) 67 ITR 106). However, the Assessing Officer (TDS) was required to examine the assessment order for A.Y. 2018-19, since the very nature of services rendered by the petitioner to the same entity was the subject matter of scrutiny in the earlier proceedings, and disallowance under Section 40(a)(i) of the Act was ultimately not made by holding that the petitioner-assessee was not required to deduct TDS under Section 195 of the Act, since the payments not being liable for disallowance under Section 40(a)(i) of the Act. 43.4 The Assessing Officer (TDS) has further held that since a detailed description of the functional services rendered under the agreement dated 01.01.2014 was not disclosed, and the assessee - petitioner failed to furnish invoice-wise particulars reflecting the exact nature of services rendered, the nature of services could not be ascertained. It has been observed that the petitioner deliberately failed to do so in order to avoid tax compliance. It has thus been held that the service provider company raised invoices in such a manner that the exact nature of services could not be identified and, therefore, in the absence of proper description of the nature of services in the invoices, such services are to be construed as "fees for technical services" within the meaning of Article 12(4) of the India-Singapore DTAA. It has also been held that the services rendered by Solvay Specialty Chemicals Asia Pacific Pte. Ltd. (SSCAPPL) to the petitioner-company fall within the definition of "fees for technical services" under Article 12(4) of the DTAA. On such basis, the Assessing Officer (TDS) concluded that the petitioner committed a default under Section 195 of the Act and accordingly initiated penalty proceedings under Section 271C read with Section 195 of the Act and raised a demand for the year under consideration along with interest. 43.5 The Assessing Officer (TDS) has premised his opinion on the observations contained in Article 3.1 (Scope of Function Services) of the agreement dated 01.01.2014, more particularly, the following paragraph: "........In addition, the detailed description of the function services rendered under this agreement shall be disclosed in supporting documentation". 43.6 Article 3.1 of the Agreement pertains to the Scope of Function Services performed by the service provider, enumerating eight categories, including Communication, Finance, General Management, Human Resources, Legal & Compliance, Purchasing, and others. In the invoices and details of foreign remittances made for the period from 01.04.2019 to 31.03.2020, along with Form 15CA and Form 15CB, the petitioner has described the nature of remittances in accordance with the Functional Services enumerated under paragraph 3.1 of the Agreement with the Singapore entity. The petitioner contended that these payments do not constitute "fees for technical services" as defined under Article 12(5) of the India-Singapore DTAA. 43.7 In his reply to the Assessing Officer (TDS), the petitioner described the services rendered. The Assessing Officer (TDS), however, has discarded these submissions. The petitioner had specifically explained that the exact nature and character of the services rendered were support services in the areas of General Management, Human Resources, Legal, Finance, Compliance, Purchasing, IT Systems, Business Processes, Business Relations, and Transversal functions. It was submitted that it is impractical and operationally impossible to prepare separate invoices for each instance of service rendered, as the services were continuous, ongoing, and often involved multiple simultaneous activities. The petitioner further submitted that the nature of the services is defined in the agreement, and invoicing is done for the service as a whole, which is provided on a consistent, year-round basis. The petitioner emphasized that there is no "make available" condition in the agreement, which is essential to qualify as FTS under the DTAA definition. 43.8 To assess the opinion of the Assessing Officer (TDS), it is apposite to refer to Article 12 of the India-Singapore DTAA. "ARTICLE 12" ROYALTIES AND FEES FOR TECHNICAL SERVICES

4. The term "fees for technical services" as used in this Article means payments of any kind to any person in consideration for services of a managerial, technical or consultancy nature (including the provision of such services through technical or other personnel) if such services : (a) are ancillary and subsidiary to the application or enjoyment of the right, property or information for which a payment described in

paragraph 3 is received ; or (b) make available technical knowledge, experience, skill, know-how or processes, which enables the person acquiring the services to apply the technology contained therein ; or (c) consist of the development and transfer of a technical plan or technical design, but excludes any service that does not enable the person acquiring the service to apply the technology contained therein. For the purposes of (b) and (c) above, the person acquiring the service shall be deemed to include an agent, nominee, or transferee of such person."

5. Notwithstanding paragraph 4, "fees for technical services" does not include payments: (a) for services that are ancillary and subsidiary, as well as inextricably and essentially linked, to the sale of property other than a sale described in paragraph 3(a) ; (b) for services that are ancillary and subsidiary to the rental of ships, aircraft, containers or other equipment used in connection with the operation of ships or aircraft in international traffic ; (c) for teaching in or by educational institutions ; (d) for services for the personal use of the individual or individuals making the payment; (e) to an employee of the person making the payments or to any individual or firm of individuals (other than a company) for professional services as defined in Article 14 ; (f) for services rendered in connection with an installation or structure used for the exploration or exploitation of natural resources referred to in paragraph 2(j) of Article 5; (g) for services referred to in paragraphs 4 and 5 of Article 5. 43.9 The Assessing Officer (TDS) has failed to examine that the services rendered by the petitioner fall within the definition of "fees for technical services" only if the service provider - Solvay Singapore - "makes available" technical knowledge and skill to the petitioner, enabling the petitioner to independently utilize such technical expertise in providing services to others. The petitioner, in its reply, categorically asserted that for the year under consideration, Solvay Singapore did not "make available" any expertise or skill that could enable the petitioner to render services to third parties independently. However, the Assessing Officer (TDS) has completely ignored this explanation and has not examined this quintessential feature before declaring the petitioner as an "assessee in default." 43.10 At this stage, it is apposite to refer to the decision of the Karnataka High Court, in the case of Director of Income- tax (International Taxation) Bangalore vs. Sun Microsystems India (P.) Ltd., [2014] 48 taxmann.com 93 (Karnataka), wherein the Court, with reference to Article 12 of the DTAA between India and Singapore, held as follows: "3. ... If the service provider also makes available the technology which they used in rendering services, then it falls within the definition of "fees for technical services", as contained in DTAA. However, if the technology is not made available along with the technical services what is rendered is only technical services and the technical knowledge is withheld then, such a technical service would not fall within the definition of "technical services" in DTAA and the same is not liable to tax." 43.11 In the instant case, the Assessing Officer (TDS), without examining whether the services rendered involved the "make available" condition, has passed the impugned order by holding that the payments to Solvay Singapore constitute "fees for technical services." It is not in dispute that, for the Assessment Year 2018-19, similar services rendered to Solvay Singapore were examined, and the petitioner's explanation that such services did not satisfy the "make available" condition was accepted. The Assessing Officer (TDS) has ignored the crucial determination of whether Solvay Singapore made available any technology or skill to the petitioner as per Article 3.1 of the Agreement dated 01.01.2014. Instead, the AO (TDS) has dismissed the petitioner's detailed submissions on the nature of services, merely noting that invoices contained common descriptions, without addressing how the services satisfy the "make available" clause necessary to classify them as fees for technical services under Article 12(4) of the India-Singapore DTAA. 43.12 The impugned order dated 31.03.2024, by declaring the petitioner as an assessee in default, relies primarily on the alleged inadequacy of the invoice descriptions. The Assessing Officer (TDS) has not examined the provisions of section 9(1) (vii) of the Income Tax Act read with Article 12(4) of the India-Singapore DTAA, nor has the Assessing Officer analyzed the Agreement dated 01.01.2014 to determine whether Solvay Singapore "made available" any technology or skill to the petitioner. Section 90(2) of the Income Tax Act mandates that DTAA provisions prevail if they are more beneficial to the assessee. The Supreme Court in the case of Union of India vs. Azadi Bachao Andolan, 2004 (10) S.C.C. 1, has confirmed that DTAA provisions take precedence over the Income Tax Act. Accordingly, the Assessing Officer (TDS) erred in holding the petitioner as an assessee in default. 43.13 The respondents have also questioned the maintainability of the instant writ petition, on the ground of alternative remedy of appeal. We are not inclined to reject the writ petition, and relegate the writ petitioner to avail the remedy of appeal, since the petitioner has raised legal issues relating to interpretation of the statutory provisions governing the jurisdiction and powers of Assessing Officers under different Chapters. Moreover, we have also held that the impugned order dated 31.03.2024 also suffers from non-application of mind to vital aspects raised by the writ petitioner. FINAL ORDER

44. The writ petition succeeds. The impugned order dated 31.03.2024 issued by the Assessing Officer (TDS) under Sections 201 and 201(1A) of the Income Tax Act is hereby quashed and set aside. Rule made absolute. There shall be no order as to costs. (A. S. SUPEHIA, J) (PRANAV TRIVEDI,J) SAJ GEORGE/ 1