Assistant Excise and Taxation Commissioner and others v. Income Tax Officer (TDS) and others

ITAs 56–61/2009, 36 and 44/2010, 3 and 14/2011

ITA 56-61/2009, 36 and 44/2010, 3 and 14/2011 | 2023-08-10

Toll-lease TCS: verify lessees' tax payments before recovery; interest survives

206C(1C) | 206C(7)

High Court of Himachal Pradesh | Shimla | M.S. Ramachandra Rao | Ajay Mohan Goel

Assessment years:

01 FACTS OF THE CASE

Ten appeals arose from demands against Himachal Pradesh Excise and Taxation officials for failure to collect tax at source on toll-lease payments. Successful bidders paid lease instalments into the treasury under the State Tolls Act. The record recounts demands for years 2004-05 to 2008-09, upheld by the appellate authorities. The appellants did not press their contention that the barriers were outside the toll-plaza provision; they sought credit for tax already paid by lessees.

Source: PDF pp.1–6, paras2–13

02 DISCUSSION BY THE HON'BLE COURT

Using the reasoning of the cited TDS decisions, the Court held that tax already paid by the respective toll lessee could not be recovered again from the appellant. Actual payment had to be verified; where the lessee had not paid the relevant tax, recovery from the appellant remained permissible. The Court separately preserved interest for the period of default.

Source: PDF pp.6–9, paras13–18

03 JUDICIAL DECISION

The appellants were to provide lessee details and PANs within four weeks. The officers were to verify the lessees' returns within eight weeks of receipt and refrain from recovering tax already paid; otherwise recovery could proceed. Section 206 C(7) interest from default until the lessee's actual tax payment remained payable within eight weeks of notification by the officer. All appeals were disposed of accordingly.

Source: PDF pp.8–9, paras17–19

04 OUTCOME / IN WHOSE FAVOUR

Conditional relief against duplicate principal-tax recovery, subject to lessee-wise verification, with express liability for interest. This was neither unconditional cancellation of the demands nor a ruling that State toll collections were outside the TCS regime.

Source: PDF pp.6–9

05 EXPERT COMMENTS

Prove payment by the correct lessee for the correct year — The relief depends on actual payment of the relevant income tax, not merely the existence of a PAN or a filed return. The directed exercise links each toll lessee, the year, the income and tax paid. A statement that the lessee was generally tax-compliant cannot replace the verification contemplated by paragraphs 16–17. Where payment is absent, the judgment permits recovery from the appellant.

Principal tax and default-period interest follow different results — The Court removes duplicate recovery only to the extent the recipient has already paid, while expressly sustaining section 206 C(7) interest. The endpoint is actual payment by the lessee, not the date on which this appeal was decided. Reconciliation must therefore preserve payment dates as well as amounts; success on principal tax does not eliminate the time-value liability identified in the order.

An unpressed contention is not a decided exemption — The opening questions included whether the activity was a toll plaza, a business or protected State income. Paragraph 13 records that the toll-plaza contention was not pressed, and the operative relief follows the payment-verification route. Those questions should not be indexed as holdings granting immunity under Article 289 or excluding toll leases from section 206 C. All ten appeal numbers belong to this common disposal.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Himachal Pradesh High Court common judgment; verified source copy

Complete source PDF reviewed: 9 physical pages.

All 9 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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