

Action against TCS defaults to be taken within a reasonable period if no limitation period is prescribed under the Act

Summary – The Ahmedabad ITAT in a recent case of Adani Enterprise Ltd., (the Assessee) held that action against TCS defaults should be taken within a reasonable period if no limitation period is prescribed under the Act

Facts

- The assessee-company was engaged in trading of 'scrap' material. During the relevant assessment year, the assessee sold 'scrap' to various parties on which TCS was not collected under section 206C(1).
- The Assessing Officer issued notice for alleged default under section 206C(1) and subsequently, he treated the assessee as in default.
- On appeal, the Commissioner (Appeals) also upheld the order of the Assessing Officer.
- In instant appeals the assessee contended that the notice for alleged default under section 206(c)(1) was issued beyond the reasonable period of four years and, hence was time barred.

Held

- The assessee had contended that the 'scrap' sold do not meet the pre-requisite of the expression 'scrap' as statutorily defined and hence he was not required to comply with TCS provisions and is not an assessee in default.
- The assessee also objected to the issuance of show cause notice after the end of four years from the financial year in which the default was allegedly committed. It was submitted that in the absence of any statutory time limit prescribed for passing such order under section 206C, such orders are required to be passed within a reasonable period of time.
- The ITAT held that while no time limit has been prescribed for passing order under section 206C, the reasonable time limit is followed to be four years from the end of the financial year for passing the order under section 206C.
- Accordingly, the order of the Commissioner (Appeals) is set aside and the Assessing Officer is directed to not treat the assessee as assessee in default under section 206C. Consequently, the liability imposed towards tax and interest under section 206C is quashed.