

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'G': NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTNAT MEMBER**

**ITA Nos.1656 and 1657/Del/2025
[Assessment Years: 2014-15 and 2015-16]**

M/s Cogent Realtors Private Limited, LGF, F-22, Sushant Shopping Arcade, Sushant Lok-1, Gurgaon, Haryana-122022	Vs	Joint Commissioner of Income Tax (OSD), TDS Circle, Gurgaon, Haryana
PAN-AACCC9392E		
Appellant		Respondent

Assessee by	Shri S.S. Nagar, CA
Revenue by	Shri Manish Gupta, Sr. DR

Date of Hearing	17.09.2025
Date of Pronouncement	31.10.2025

ORDER

PER ANUBHAV SHARMA, JM,

These two appeals have been preferred by the assessee against order dated 31.01.2025 of the learned Commissioner of Income Tax (Appeals)-3, Gurgaon, arising out of orders dated 26.04.2021 for Assessment Year 2014-15 and dated 20.05.2022 for AY 2015-16, passed u/s 201(1)/201(1A) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the JCIT(OSD), TDS Circle, Gurgaon.

2. As the two appeals have common issue same were heard together and facts for AY 2014-15 shall be referred. On hearing both the sides, we find that the

assessee company is engaged in the business of real estate. A survey u/s 133A(2) of the Act was conducted on the business premises of Haryana Urban Development Authority (HUDA) on 09.02.2017 and 10.02.2017. The information collected allegedly revealed that in AY2014-15 the payment of External Development Charges (EDC) totalling to Rs.9,40,10,000/- was made by the assessee to HUDA without deducting TDS. A proceedings u/s 201(1)/201(1A) were initiated and the impugned order was passed in the case of the assessee, whereby, the Assessing Officer has held that the assessee to be in default for non-deduction of TDS u/s 194I of the Act and the demand was created which was not sustained by the ld. CIT(A) for which the assessee is in appeal for two assessment years i.e. 2014-15 and 2015-16 before us.

3. The ld. Counsel for the assessee has primarily argued that the provisions of section 194I of the Act are not applicable and reliance was placed on the decision of Hon'ble Delhi High Court in the case of DLF Home Panchkula Pvt. Ltd. vs JCIT (OSD) 459 ITR 773, in which the SLP preferred by the Department has been dismissed as reported in (2024) 161 taxmann.com 237 (SC).

4. The ld. DR has countered the same by submitting that there is mere error in mentioning of section 194I of the Act and in fact the provisions of section 194C were applicable in these cases. He relied upon the impugned orders to submit that the provisions of section 194C are also mentioned by the Assessing Officer.

5. After taking into consideration the impugned orders, we find that while issuing notices calling upon assessee to show-cause, the Assessing Officer has invoked the provisions of section 194I of the Act initially and also without prejudice basis the provisions of section 194C of the Act were mentioned at page no.20 of the impugned orders for financial year 2014-15 relevant to Assessment Year 2015-16. However, while concluding the order in para no.3, the Assessing Officer specifically refers to assessee being in default for non-deduction of TDS u/s 194I of the Act. Though, the impugned order for financial year 2013-14 relevant to AY 2014-15, there is specific mention at the time of conclusion of application of section 194I of the Act. However, the impugned order of ld. CIT(A) specifically refers to invocation of section 194I of the Act in both the Assessment Years.

6. We are also of considered view that department cannot call for an advantage by citing multiple provisions in show cause and which are not finally invoked for fastening the tax liability. The impugned orders very categorically show that provisions of Section 194I of the Act have been invoked to hold assessee in default. Now, as with regard to applicability of section 194I of the Act there seems to be no doubt that the same is not applicable in regard to EDC Charges paid to HUDA as held by Hon'ble Delhi High Court in the case of DLF Home Panchkula Pvt. Ltd. vs JCIT (OSD) (supra). Therefore, in the light of the aforesaid, we are

inclined to sustain the grounds of appeal no.4 with its sub grounds and the appeals are allowed.

7. In the result, the appeals of the assessee are allowed. Impugned orders are quashed.

Order pronounced in the open court on 31st October, 2025.

Sd/-

Sd/-

**[MANISH AGARWAL]
ACCOUNTANT MEMBER**

Dated: 31.10.2025

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

**[ANUBHAV SHARMA]
JUDICIAL MEMBER**

Asst. Registrar,
ITAT, New Delhi