

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'SMC-C', BANGALORE

BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA Nos. 471 to 475 (Bang) 2018
(Assessment years : 2014 – 15 (Q4) & 2015 – 16 (Q1 to Q4))

The Senior Civil Judge & JMFC,
Bantwal,
Dakshina Kannada – 574219.
TAN. BLRC08002B

Appellant

Vs

The Assistant Commissioner of Income Tax,
Centralized Processing Cell-TDS,
Mangalore.

Respondent

Assessee by : Shri Ravish Rao, C. A.
Revenue by : Smt. Padmameenakshi, JCIT (DR)

Date of hearing : 08-05-2018
Date of pronouncement : 11-05-2018

ORDER

PER A. K. GARODIA, A.M.:

All these five appeals are filed by the assessee which are directed against five separate orders of CIT (A) – Mangaluru all dated 30.11.2017. All these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. Although several grounds are raised in each appeal but the issue involved in all these appeals is one common issue regarding levying of late fee u/s 234E by raising demand u/s 200A and this is also a ground in each appeal that late fees u/s 234E cannot be levied for the period prior to 01.06.2015 since there was no enabling provision to raise demand u/s 200A in respect of such late fee. The demand in dispute is Rs. 52,965/- in ITA 471, Rs. 20,000/- in ITA 472, Rs. 40,000/- in ITA 473, Rs. 20,000/- in ITA 474 and Rs. 20,200/- in ITA 475.

3. Learned AR of the assessee submitted that this issue is squarely covered in favour of the assessee by the judgment of Hon'ble Karnataka High Court rendered in the case of Fatehraj Singhvi & Others vs. Union of India & Others as reported in (2017) 10 ITR – OL – 509. He submitted a copy of this judgment and pointed out that it was held in this case that since the amendment in clauses (c) to (f) of section 200A (1) is w.e.f. 01.06.2015, intimation for payment of fees u/s 234E cannot be made in purported exercise of powers u/s 200A for the period of the A. Y. prior to June 1, 2015. Learned DR of the revenue supported the orders of the lower authorities. She also submitted that in the present case, all Statements are filed after 01.06.2015 and therefore section 200A is applicable in the present case.

4. I have considered the rival submissions. I find that in ITA No. 471/B/2018 for A, Y. 2014 – 15 (Q 4), in Para 3 of his order, Learned CIT (A) has noted the facts as per which, the assessee filed e statement for this quarter on 05.12.2015 i.e. after 569 days after the due date. Similarly, in ITA No. 472/B/2018 for A, Y. 2015 – 16 (Q 1), in Para 3 of his order, Learned CIT (A) has noted the facts as per which, the assessee filed e statement for this quarter on 21.08.2015 i.e. after 386 days after the due date. Similarly, in ITA No. 473/B/2018 for A, Y. 2015 – 16 (Q 2), in Para 3 of his order, Learned CIT (A) has noted the facts as per which, the assessee filed e statement for this quarter on 21.08.2015 i.e. after 294 days after the due date. Similarly, in ITA No. 474/B/2018 for A, Y. 2015 – 16 (Q 3), in Para 3 of his order, Learned CIT (A) has noted the facts as per which, the assessee filed e statement for this quarter on 24.08.2015 i.e. after 205 days after the due date and Similarly, in ITA No. 475/B/2018 for A, Y. 2015 – 16 (Q 4), in Para 3 of his order, Learned CIT (A) has noted the facts as per which, the assessee filed e statement for this quarter on 24.08.2015 i.e. after 101 days after the due date. In the case of Fatehraj Singhvi & Others vs. Union of India & Others (Supra), it was held by Hon'ble Karnataka High Court that since the amendment in clauses (c) to (f) of section 200A (1) is w.e.f. 01.06.2015, intimation for payment of fees u/s 234E cannot be made in purported exercise of powers u/s 200A for the period of the A. Y. prior to June 1, 2015. Hence, respectfully following this judgment, I delete the demands

in all 5 quarters till 01.06.2015 but since in all these five quarters, the statement was filed by the assessee on 05.12.2015 for Q 4 of AY 2014 – 15 and in August 2015 for all remaining four quarters of A. Y. 2015 – 16, the late fees demanded by the revenue includes some fees for the period after 01.06.2015 also and hence, the late fees for the period from 01.06.2015 is payable but not for the period up to 31.05.2015. Accordingly, I set aside the order of CIT (A) in all these five quarters and restore the matter back to AO with the direction that he should quantify the amount of late fees to be paid for each of these five quarters for the delay from 01.06.2015 till the actual date of filing of the statement for the respective quarter. The assessee gets part relief.

5. In the result, all the five appeals of the assessee are partly allowed for statistical purposes in the terms indicated above.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 11th May, 2018.
/MS/

Copy to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.