

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

' B' BENCH : CHENNAI

श्री अब्राहमपी.जॉर्ज, लेखा सदस्य एवं

श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER
AND SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./I.T.A.Nos.195, 196, 197 & 198/CHNY/2018

निर्धारण वर्ष /Assessment years : 2014-15,2014-15,2014-15 & 2014-15

Shri S.R.Raghuvir,
No.23,Balfour Road, Kilpauk,
Chennai 600 010.

[PAN AAAPR 6061 J]

(अपीलार्थी/Appellant)

Vs. Income Tax officer,
Non-corporate Ward 10(1),
Chennai

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.G.Seetharaman,C.A.

प्रत्यर्थी की ओर से /Respondent by

: Mr.Aroon Prasad,JCIT,D.R

सुनवाई की तारीख/Date of Hearing

: 09 -07-2018

घोषणा की तारीख /Date of Pronouncement

: 09-07-2018

आदेश / O R D E R

PER GEORGE MATHAN , JUDICIAL MEMBER

ITA Nos.195 to 198/CHNY/2018 are the appeals filed by the Assessee against the common order of the Commissioner of Income Tax (Appeals)-12, Chennai, in ITA Nos.01, 20, 21 & 22/CIT(A)-12/2017-18 dated 13.11.2017 for assessment year 2015-16 relating to belatedly filing quarterly returns of TDS, confirming the levy of "Late Filing Fee" u/s.234E of the Act made by Id. Assessing Officer.

2. As all the appeals are related to the same assessee and inter-connected, all appeals are disposed off by this common order.

3. Mr.G.Seetharaman represented on behalf of the Assessee and Mr.Aroon Prasad represented on behalf of the Revenue.

4. It was submitted by Id.A.R that the assessee had filed the regular quarterly statements of TDS for Q1, Q2, Q3 & Q4 for assessment year 2014-15 on 01.03.2017. It was a submission that the due dates to file the returns for the above quarters were 15.07.2014, 15.10.2014, 15.01.2015 and 15.05.2015 respectively. Late fee had been levied on the assessee as per the provisions of the section 234E of the Act. It was a submission that the assessee had deducted the taxes and remitted the same before the due date and was filing the quarterly return statements before the due dates for the past several years and there is no default whatsoever for the financial year 2014-15; the assessee had forwarded the quarterly returns to his Authorized Representative of assessee for filing the same along with other papers. It was a submission that the delay had taken place on account of failure on the part of the Authorized Representative of assessee. It was a submission that the assessee did not know of non-filing by the representative and immediately, when it was brought to the attention, the assessee had filed the returns. It was submitted by the Id.A.R that the levy u/s.234E of the Act was not liable to be made. It was a submission that Ld.CIT(A) had confirmed the levy of penalty on the ground that it was a 'statutory fee'

5. In reply, Id.D.R vehemently supported the orders of Id. Assessing Officer and the Ld.CIT(A)

6. We have considered the rival submissions. A perusal of the provisions of the section 234E of the Act shows that under the provisions of the section 234E of the Act, levy is in the nature of fee for the default in furnishing statements and the same is at the rate of ₹200/- per day during which the failure continues subject to a maximum of the actual amount of tax deductible and collectable. Section 234E is not in the nature of compensation such as interests levied under sections 234A, 234B, 234C & 234D of the Act. The levy of this fee under the provisions of the section 234E of the Act is a statutory levy for breach of the provisions or non-compliance of particular provision of the Act. Once it is not in the nature of compensation, then principles of natural justice will come into play and reasonable cause would be available to the assessee to explain the reasons for the default. Admittedly, if the default is on reasonable grounds, then the fee is not leviable. Natural justice requires the reading of the reasonable cause into the said provisions. The assessee herein admittedly has been filing its returns and statements in time for earlier and for the subsequent years, this is only time when there has been violation on the part of the assessee. The violation admittedly is not in respect of deduction of the TDS or the payment of the same to

the Government account. The default is in respect of non-submission of the statements of the same within the prescribed time. The assessee has also explained the reasons for the default on account of the failure on the part of the assessee `s representative. This explanation given by the assessee has also not been found to be false. This being so, we are of the view that the claim of assessee is liable to be accepted and the fee levied u/s.234E is liable to be cancelled and we do so.

7. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court after conclusion of hearing on 09th July, 2018, at Chennai.

Sd/-

(अब्राहमपी.जॉर्ज)

(ABRAHAM P GEORGE)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 09th July, 2018.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |