

IN THE INCOME TAX APPELLATE TRIBUNAL
Camp Bench at Jalandhar

Before Shri N.K. Saini, Vice President
and Shri Ravish Sood, Judicial Member

ITA Nos.126 to 133/Asr./2017
(Assessment Year: 2015-16)

M/s GNA Udyog Ltd.
1-C Chhoti Baradari,
Garha Road,
Jalandhar.

Vs. Asst. Commissioner of Income Tax
Centralized processing Cell TDS
Ghaziabad (U.P)

PAN – AAACG4912C

(Appellant)

(Respondent)

Appellant by: Shri Gunjeet Syal, A.R.
Respondent by: Shri Ankit Kumar Aggrawal, D.R

Date of Hearing: 11.01.2019
Date of Pronouncement: 15.01.2019

ORDER

PER BENCH:

The present appeals filed by the assessee are directed against the consolidated order passed by the CIT(A)-2, Jalandhar, dated 27.10.2015, which in turn arises from the respective intimations issued under Sec.200A of the Income Tax Act, 1961 (for short 'I.T. Act') for A.Y 2015-16. As the assessee in the aforementioned appeals had assailed the levy of fees charged under Sec. 234E of the Income Tax Act, 1961 (for short 'I.T Act'), therefore, the same are being taken up and disposed off together by way of a common order.

2. Briefly stated, as the assessee company had delayed the filing of the statements of tax deduction at source for all the 4 quarters pertaining to A.Y

2015-16, thus interest under Sec.234E I.T. Act was charged upon it, as under :

Particulars	Fee u/s. 234E	Date of filing of TDS Return	Date of Intimation u/s 200A
1 st Quarter: 26Q	Rs.26,430/-	22.09.2015	26.09.2015
:27EQ	Rs.9,500/-	22.09.2015	26.09.2015
2 nd Quarter : 26Q	Rs.68,400/-	22.09.2015	26.09.2015
:27EQ	Rs.33,980/-	22.09.2015	26.09.2015
3 rd Quarter : 26Q	Rs.50,000/-	22.09.2015	26.09.2015
:27EQ	Rs.15,110/-	22.09.2015	26.09.2015
4 th Quarter :26Q	Rs.27,670/-	22.09.2015	04.10.2015
:27EQ	Rs.26,000/-	22.09.2015	26.09.2015

3. Aggrieved, the assessee assailed the fees levied under Sec.234E vide the respective intimations under Sec.200A of the I.T. Act before the CIT(A). It was the contention of the assessee that as per Sec. 200A as was available on the statute prior to 01.06.2015, there was no enabling provision which at the relevant point of time provided for raising of demand towards levy of fees under Sec. 234E, thus the raising of demand under the said statutory provision in the case of the assessee for the year under consideration was beyond the scope of permissible adjustments contemplated under Sec.200A of the I.T Act. However, the CIT(A) after deliberating on the contentions advanced by the assessee was not persuaded to subscribe to the same. It was observed by the CIT(A) that as in the case of the assessee before him the respective TDS returns were filed on 22.09.2015 and the same had thereafter been processed on 26.09.2015 and 04.10.2015, i.e. much subsequent to 01.06.2015 i.e. the date on which the provision enabling the levy of fees under Sec.234E was incorporated in Sec.200A of the I.T. Act, hence the said levy was well in order. On the basis of his aforesaid deliberations the CIT(A) concluded that the ACIT, CPC was justified in levying fees towards late filing of the TDS returns in the hands of the assessee.

4. The assessee being aggrieved with the order CIT(A) has carried the matter in appeal before us. The Id. Authorized Representative (for short

'A.R') for the assessee at the very outset of the hearing of the appeals submitted that as the section enabling the levy of fees under Sec.234E was made available in Sec.200A with effect from 01.06.2015, hence the ACIT, CPC, Ghaziabad had erred in levying fees under the said statutory provisions in the hands of the assessee for A.Y. 2015-16. The Id. A.R submitted that the issue involved in the present appeal was squarely covered in favour of the assessee by the judgment of the Hon'ble High Court of Karnataka in the case of Fatheraj Singhvi & Ors. Vs. Union of India & Ors. (2016) 142 DTR 281 (Kar) and the order of the ITAT, Chandigarh in the case of Sonalac Paints & Coatings Ltd. Vs. DCIT (2018) 167 DTR 83 (Chd.) (Copies placed on record). In the aforesaid judicial pronouncements it was observed that in the course of processing of statement tax deducted at source under Sec.234A no fees under Sec.234E could be charged for the period prior to 01.06.2015.

5. Per contra, the Id. Departmental Representative (for short 'D.R') relied on the order of the CIT(A) and submitted that as the assessee had delayed the filing of the respective statements of tax deduction at source for all the four quarters in Forms 26Q/27EQ, therefore, the ACIT, CPC had rightly levied fees under Sec.234E in its hands.

6. We have heard the authorised representatives for both the parties, perused the orders of the lower authorities and the material available on record. Admittedly, it is a matter of fact borne from the records that the assessee had delayed filing of the statements of tax deduction at source in Forms 26Q/27EQ for all the four quarters relevant to assessment year 2015-16. On a perusal of the records, it stands revealed that all of the statements of tax deduction at source were filed by the assessee on 22.09.2015 and the same had thereafter been processed under Sec.200A of the I.T Act on 26.09.2015 and 04.10.2015, as per the details tabulated hereinabove, We find that the Hon'ble High Court of Karnataka in the case of Fatheraj Singhvi & Ors. Vs. Union of India (2016) 289 CTR 602 (Kar.) had concluded that the notice under Sec.200A of the I.T. Act computing fee under Sec.234E, to the extent the same related to the period of the tax

deducted prior to 01.06.2015 was liable to be set aside. The aforesaid judgment of the Hon'ble High Court of Karnataka had thereafter been relied upon by the ITAT, Chandigarh in the case of Sonalac Paints & Coatings Ltd. Vs. DCIT (2018) 167 DTR 83 (Chd.). In the aforesaid case it was observed by the Tribunal that levy of fees under Sec.234E while processing the TDS returns under Sec.200A prior to 01.06.2016 was without any authority of law. On the basis of its aforesaid observations, the Tribunal had concluded that the fees levied under Sec.234E prior to 01.06.2015 in the intimations made under Sec. 200A was without authority of law, and as such the fees therein levied was liable to be deleted. Apart therefrom, we find that the issue involved in the appeal before us is also covered by an order of the ITAT, Amritsar in the case of Tata Rice Mills Vs. ACIT (CPC), TDS Ghaziabad (ITA No. 395/ASR/2016; dated 25.10.2017. In the aforementioned case, it was observed by the Tribunal that the assessee had filed its statement of tax deduction at source for the 'second quarter' relevant to Financial year 2014-15 on 19th June, 2015, which was thereafter processed on 23.06.2015 by the ACIT-TDS, CPC and a late fee under Sec. 234E of Rs. 49,400/- was charged in the intimation issued under Sec. 200A of the I.T. Act. It was observed by the Tribunal that as the amendment made under Sec.200A was effective from 01.06.2015 and applicable prospectively, hence no computation of fee under Sec.234E could be made for the TDS deducted prior to 01.06.2015.

7. We have given a thoughtful consideration to the issue before us and finding ourselves as being in agreement with the view taken by the Tribunal in the case of Tata Rice Mills (supra), hence are of the considered view that the ACIT-TDS, CPC Ghaziabad in the case before us had erred in levying fees under Sec.234E in respect of tax deducted at source for the four quarters prior to 01.06.2015 in respect of A.Y. 2015-16. We thus not being persuaded to subscribe to the view taken by the CIT(A) who had upheld the levy of fees by the A.O, thus set aside his order and vacate the demand raised by the A.O under Sec.234E in the hands of the assessee for all the four quarters for the year under consideration.

8. The appeals filed by the assessee for A.Y. 2015-16 i.e. ITA Nos. 126 to 133/ASR/2017 are allowed in terms of our aforesaid observations.

Order pronounced in the open court on 15.01.2019

Sd/-
(N.K. Saini)
Vice President

Sd/-
(Ravish Sood)
Judicial Member

Place: Jalandhar; Date: 15.01.2019
Ps. Rohit

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण/ DR,
ITAT, Camp Bench, Jalandhar.
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ITAT, Camp
Bench, Jalandhar.

Sr.No.	Details	Date	Initials	Designation
1	Draft dictated on			Sr.PS/PS
2	Draft Placed before author			Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM
5	Approved Draft comes to the	15.1.19		Sr.PS/PS
6	Kept for pronouncement on	15.1.19		Sr.PS/PS
7	File sent to the Bench Clerk	16.1.19		Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date on which file goes to the AR			
10	Date of Dispatch of order			