

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND
SHRI JASON P BOAZ, ACCOUNTANT MEMBER**

ITA Nos.1482 to 1490/Bang/2018
Assessment Years : 2013-14 to 2015-16

M/s. Dr. C. Fernandes Co-operative Credit Society Ltd., Bazar Road, Honnavar – 581 334, Uttara Kannada. PAN: AAAAD 0357 J	Vs.	The Deputy Commissioner of Income Tax, Central Processing Cell – TDS.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Pratiksha Pai, CA
Respondent by	:	Dr. P. V. Pradeep Kumar, Addl. CIT

Date of hearing	:	10.12.2018
Date of Pronouncement	:	17.01.2019

ORDER

Per Jason P Boaz, Accountant Member

These are a batch of nine appeals directed against the orders of CIT(A)-10, Bangalore, all dated 14.02.2018 for Assessment Years 2012-13 to 2015-16 for non-admission of the assessee's appeals against the intimations issued by the DCIT-TDS-CPC u/s 200A of the Income Tax Act, 1961 (in short 'the Act') requiring the assessee to pay late filing fees u/s 234E of the Act; by not condoning the delay in filing the appeals before him.

2. The details of the appeals are as under:

Sl. No.	ITA No.	Assessment Year	Quarter
1.	1482/Bang/2018	2013-14	Quarter ended 30.09.2012
2.	1483/Bang/2018	2013-14	Quarter ended 31.12.2012
3.	1484/Bang/2018	2013-14	Quarter ended 31.03.2013
4.	1485/Bang/2018	2014-15	Quarter ended 30.06.2013
5.	1486/Bang/2018	2014-15	Quarter ended 30.09.2013
6.	1487/Bang/2018	2014-15	Quarter ended 31.12.2013
7.	1488/Bang/2018	2014-15	Quarter ended 31.03.2014
8.	1489/Bang/2018	2015-16	Quarter ended 30.06.2014
9.	1490/Bang/2018	2015-16	Quarter ended 30.09.2014

3.1 These nine appeals by the assessee, directed against the respective orders of the CIT(A), all dated 14.02.2018, relating to different assessment years, were all heard together as they related to common/connected issues and are being disposed off by way of this consolidated order. The grounds / issues raised in all these appeals are similar and therefore we extract hereunder only the statement of facts and grounds of appeal raised in ITA No.1482/Bang/2018 for Assessment Year 2013-14:

STATEMENT OF FACTS

1. The Appellant is a Co-operative Society primarily formed with a view to provide credit facilities to its members. It accepts deposits from members and others. The Appellant is registered with Co-operative

- Department of Government of Karnataka as Co-operative Society as per Karnataka Cooperative Societies Act, 1959. The Appellant pays interest on deposits and deducts tax in applicable cases where the interest amount exceeds threshold limit.*
- 2. The Appellant had filed its TDS Quarterly statement of Quarter 2 on 09-Mar-2013 which was due to be filed on 15-Oct-2012. There was a delay in filing of TDS returns due to some technical reasons.*
 - 3. The TDS Central Processing Cell (Hereafter referred as TDS-CPC) processed the return and issued intimation u/s 200A and levied a late fees of Rs.22,263 for delay in filing Quarterly TDS statement. The late fee was levied in the intimation itself. The intimation was issued on 05-Sep-2013.*
 - 4. The Appellant did not pay the late fee u/s 234E as there was no express provisions to levy the same in the intimation issued u/s 200A.*
 - 5. The Appellant was also being informed by its consultants that the levy of late fee u/s 234E in the intimation u/s 200A was already being challenged in the Judicial forums and appellant decided to wait for the outcome of the Judicial proceedings.*
 - 6. Subsequently, The Honourable Karnataka High Court in Fatheraj Singhvi Vs U01 (WA 2650/2015, WA34/2016, WA 2648/2015, WA 2652/2015) has held that there was no power under section 200A to levy any late fee u/s 234E prior to amendment of Section 200A on 1-6-2015.*
 - 7. In view of the above judgement of the Honourable Karnataka High Court, the Appellant approached the jurisdictional TDS officer to cancel the demand of late fee u/s 234E which was levied by TDS CPC on 5-9-2013.*
 - 8. The Appellant was informed by Jurisdictional TDS Officer to prefer an appeal for cancellation of the late fee u/s 234E which was levied by TDS CPC on 5-9-2013.*
 - 9. The Appellant preferred an appeal with Honourable CIT (Appeals) for cancellation of the levy of late fee u/s 234E. However, the Learned CIT (Appeals) - 10, Bengaluru has disposed off the appeal as the same has been filed lately and there is no sufficient cause for the delay in filing appeal. Further Learned CIT(Appeal) has also taken a stand that as per the aforementioned judgement of Honourable Karnataka High Court, the late fee paid prior to 1-6-2015 cannot be re-opened for claiming refund. The Appellant however has not asked for refund of late fee since the same was not paid at all.*
 - 10. The levy of late fees is incorrect and wrong and not in accordance with law as section 200A does not permit levy of late fee u/s 234E.*

GROUND OF APPEAL

1. *The Learned CIT(appeals)-10, Bengaluru has not considered the correct legal position which emanate from the various judgements.*
2. *The Honourable Karnataka High Court in the case of Fatheraj Singhvi v/s U01 (2650/2015, WA 34/2016, WA 2648/2015, WA 2652/2015) has held that there was no power under section 200A to levy any late fee u/s 234E prior to amendment of the law on 1-6-2015. Therefore, the demand of late fee would be automatically cancelled as the law prevailing at that time u/s 200A did not allow such levy while processing the TDS returns.*
3. *The Learned CIT(Appeals) has erred in not granting relief and wrongly concluded that refund of late fee paid u/s 234E is not permissible whereas the appeal was against the levy of late fee and not claiming refund of late fee. The Learned CIT (Appeals) was also informed that appeal was preferred lately as similar matter was already being contested by other parties in various judicial forums and the appellant was waiting for the outcome of the same. The appeal was preferred only when the Jurisdictional TDS officer suggested to prefer an appeal for cancellation of late fee when the Appellant requested for cancellation of demand notice.*
4. *The Appellant prays that the decision of the Honourable Karnataka High Court in Fatheraj Singhvi Vs U01 (WA 2650/2015, WA34/2016, WA 2648/2015, WA 2652/2015) be applied to the case as the facts of the case are similar.*
5. *The Appellant prays that the levy of late fee u/s 234E through the medium of intimation u/s 200A be quashed as the section does not permit such levy prior to amendment of law on 1-Jun-2015.*
6. *Such other grounds as may be urged at the time of hearing.*

3.2 From a perusal of the statement of facts, grounds of appeal (supra) and the material on record, the issue for consideration in all the appeals before us is against the intimation issued u/s 200A of the Act requiring the assessee to pay late fees u/s 234E of the Act. The issue raised is in respect of the charging of late fees payable u/s 234E of the Act prior to the amendment to section 200A(1)(c) of the Act while processing the TDS

returns. It is the assessee's contention that the legislature had inserted clause (c) to section 200(1) of the Act specifically w.e.f. 01.06.2015 and therefore in respect of TDS statements filed for the period prior to 01.06.2015, late fees u/s 234E of the Act could not be levied in the intimation issued u/s 200A of the Act.

4. Briefly stated, the facts of the case are as under:

4.1 The assessee, a Co-operative Society, pays interest on deposits and deducts tax at source in applicable cases where the interest amount exceeds the threshold limit. The Act required the assessee to file quarterly TDS returns intimating the tax deducted at source from various payments made in each quarter. The said TDS returns are mandated to be filed every quarter within the stipulated period. Admittedly, in the present set of appeals, the quarterly TDS returns were filed belatedly. The TDS Centralised Processing Cell, while processing the TDS returns issued intimations to the assessee under section 200A of the Act and charged the assessee late filing fees under section 234E of the Act. The assessee has not paid the demand raised so far.

4.2 The issue of levy of fees under section 234E of the Act by means of issuing of intimation under section 200A prior to the amendment of Section 200A(1)(c) of the Act vide Finance Act, 2015, w.e.f. 01.06.2015 was under challenge in the Courts. The Hon'ble Karnataka High Court, in the case of Fatheraj Singhvi and Others Vs. UOI, WA 2263 to 2274/2015 and others

dated 26.08.2016, had quashed the intimation under section 200A of the Act by holding that there was no power under section 200A of the Act to levy any late fee under section 234E of the Act prior to the amendment to the section w.e.f. 01.06.2015.

4.3 The assessee submitted that it is in view of the above decision of the Hon'ble Jurisdictional High Court in the case of Fatheraj Singhvi (supra), the assessee filed belated appeals before the CIT(A) against the intimations issued under section 200A of the Act for the periods prior to 01.06.2015. The CIT(A), vide the respective impugned orders, passed separately for each of the nine appeals, declined to admit the assessee's appeals stating that the reasons furnished by the assessee for not filing the appeals in time does not constitute "sufficient cause". The CIT(A) also noted the following observations of the Hon'ble Karnataka High Court at paras 22 and 27 of the decision in the case of Fatheraj Singhvi:

"However, we make it clear that, if any deductor has already paid the fee after intimation received under Section 200A, the aforesaid view will not permit the deductor to reopen the said question unless he has made payment under protest. (Para - 22)

It is clarified that the present judgment would not be interpreted to mean that even if the payment of the fees under Section 234E already made as per demand/intimation, under Section 200A of the Act for the TDS for the period prior to 01.04.2015 is permitted to be reopened for claiming refund. The judgment will have prospective effect accordingly. (Para — 27)"

4.4 In view of the above observations of the Hon'ble Karnataka High Court, the CIT(A) held that the judgment has prospective effect and does not

allow the appellant to file an appeal belatedly against an order which was passed long ago. It was in the light of this observation of the Hon'ble High Court, the CIT(A) held that the reason for delay in filing appeals does not constitute "sufficient cause".

5.1 Aggrieved by the nine impugned orders of the CIT(A) dated 14.02.2018, the assessee is in appeal before us. In the course of proceedings, the learned AR of the assessee assailed the orders of the CIT(A) in not admitting the appeals of the assessee and thereby not considering and adjudicating on the issues raised in the grounds of appeal. It was submitted that the Hon'ble jurisdictional High Court in the case of Fatheraj Singhvi (supra) has quashed the intimation under section 200A of the Act for charging / levying late fees under section 234E of the Act; which were issued prior to 01.06.2015. According to the learned AR, since the Hon'ble High Court has settled the law in the matter, the intimations issued under section 200A levying / charging late fee under section 234E of the Act prior to 01.06.2015 have been rendered illegal and have to be quashed. It was contended that the CIT(A) was wrong in not admitting the nine appeals on technical grounds, which was also wrong.

5.1.2 It was also submitted that the CIT(A) has misdirected himself by misreading the aforesaid judgment of the Hon'ble jurisdictional High Court in the case of Fatheraj Singhvi (supra); particularly the observation that :

“.....if any deductor has already paid the fee after intimation received under section 200A, the aforesaid view will not permit the deductor to re-open the said question unless he has made payment under protest.”(para 22)

And the observation in para 27 that:

“27.....It is clarified that the present judgment would not be interpreted to mean that even if the payment of the fees under section 234E already made as per demand / intimation under section 200A of the Act for TDS for the period prior to 01.04.2015 is permitted to be re-opened for claiming refund.....”

5.3.1 In this regard, it was submitted that the assessee has not paid the demand raised by the Revenue by way of intimations under section 200A of the Act and therefore the question of re-opening the issue for claiming of refunds does not arise in the case of the assessee. Therefore, the observations of the Hon'ble High Court does not apply to facts of the assessee's case as has been misinterpreted by the CIT(A).

5.1.4 The learned AR contends it is settled that when a Higher Court has rendered a decision on issue, such a decision gives the assessee

'sufficient cause' to approach the appellate authorities for remedy in respect of that issue. It was submitted that only after the Hon'ble Karnataka High Court in the case of Fatheraj Singhvi had quashed the intimation issued under section 200A charging / levying fees under section 234E of the Act prior to 01.06.2015, the assessee had reason to file appeals before the CIT(A) and this, it is contended, constitutes "sufficient cause" for condoning the delay in filing the present 9 appeals before the CIT(A). In support of the assessee's contention, the learned AR placed reliance on the decision of the Hon'ble High Court of Gujarat in the case of Karamchand Premchand P Ltd., Vs. CIT (1975) 101 ITR 46 (Guj.).

5.2.1 Per contra, the learned DR vehemently supported the impugned orders of the CIT(A). On the issue of charge / levy of fee under section 234E of the Act, it was submitted that even without insertion of clause (c) to section 200A(1) of the Act, it was incumbent on the assessee to pay fees, in case there is a default in furnishing the statement of TDS. According to the learned DR, section 234E of the Act is a charging provision creating a charge for levying fees for default in filing statements and the fee prescribed under section 234E of the Act could be levied even without a regulatory provision being found in section 200A of the Act for computation of the fee. In support of the above contentions, the learned DR placed reliance on the decision of the Hon'ble Gujarat High Court in the case of Rajesh Kourani Vs. Union of India (2017) 83 taxmann.com 137 (Guj.).

5.2.2 On the issue of condonation of delay in filing the 9 appeals before the CIT(A), the learned DR supported the decision rendered by the CIT(A). According to the learned DR, it is the assessee who took a voluntary decision not to file appeals and only on account of a decision of the Hon'ble Karnataka High Court (supra) rendered much later, the assessee cannot file appeals belatedly and seek condonation of delay. In support of this contention, the learned DR relied on, *inter alia*, following judicial pronouncements:

- (i) Somerset Place Co-operative Housing Society Ltd., Vs. ITO (2015) 57 taxmann.com 7 (Bom)
- (ii) First ITO Vs. A. N. Mafatlal (HUF) (1982) 2 ITD 61 (Bom)

5.3.1 We have carefully considered the rival contentions and submissions placed on record; including the judicial pronouncements cited. There is no dispute about the fact that there was a delay on the part of the assessee in furnishing the TDS statements as per the requirements of the TDS provisions in the Act and accordingly intimations under section 200A of the Act were issued for the respective quarters for which the delay occurred. The assessee filed appeals before the CIT(A) against the intimations for each of the quarters; after delays varying for each of the quarters. The reason put forth for the delay in filing the appeals was that the issue in question was under challenge in the Courts and the assessee decided to wait for the outcome of the judicial proceedings. The assessee also did not

pay the levied fees under section 234E of the Act that was raised in the intimations under section 200A of the Act. Now that the decision of the Hon'ble Karnataka High Court in the case of Fatheraj Singhvi and Others Vs. Union of India WA 2263, 2674/2015 dated 26.08.2016 has been rendered quashing the issue of intimation under section 200A levying late fee under section 234E of the Act, prior to 01.06.2015; the assessee moved the AO to cancel the intimations issued under section 200A and as the AO asked the assessee to file appeals to get the intimations quashed, the appeals were filed before the CIT(A).

5.3.2 The substantive issue involved on the levy of late fee under section 234E of the Act through intimation under section 200A of the Act for the period prior to 01.06.2015 has been considered and decided by the Hon'ble Karnataka High Court in the Write Appeal No. 2663-2674/2015 (T-IT) and Others dated 26.08.2016 in the case of Shri Fatheraj Singhvi and Others Vs. Union of India; the relevant portion of which, at paras 20 to 27 thereof, is extracted hereunder:

“20. In view of the aforesaid observations and discussion, two aspects may transpire one, for Section 234E providing for fee and given privilege to the defaulter if he pays the fee arid hence, when a privilege is given for a particular purpose which in the present case is to come out from rigors of penal provision of Section 271H(1)(a), it cannot be said that the provisions of fee since creates a. counter benefit or reciprocal benefit in favour of the defaulter in. the rigors of the penal provision, the provisions of Section 234E would meet with the test of quid pro quo.

21. However, if Section 234E providing for fee was brought on the state book, keeping in view the aforesaid purpose and the intention

then, the other mechanism provided for computation of fee and failure for payment of fee under Section 200A which has been brought about with effect from 1.6.2015 cannot be said as only by way of a regulatory mode or a regulatory mechanism but it can rather be termed as conferring substantive power upon the authority. It is true that, a regulatory mechanism by insertion of any provision made in the statute book, may have a retroactive character but, whether such provision provides for a mere regulatory mechanism or confers substantive power upon the authority would also be a aspect which may be required to be considered before such provisions is held to be retroactive in nature. Further, when any provision is inserted for liability to pay any tax or the fee by way of compensatory in nature or fee independently simultaneously mode and the manner of its enforceability is also required to be considered and examined. Not only that, but, if the mode and the manner is not expressly prescribed, the provisions may also be vulnerable. All such aspects will be required to be considered before one considers regulatory mechanism or provision for regulating the mode and the manner of recovery and its enforceability as retroactive. if at the time when the fee was provided under Section 234E, the Parliament also provided for its utility for giving privilege; under Section 271H(3) that too by expressly put bar for penalty under Section 272A by insertion of proviso to Section. 272A(2), it can be said that a particular set up for imposition and the payment of fee under Section 234E was provided but, it did not provide for making of demand of such fee under Section 200A payable under Section 234E. Hence, considering the aforesaid peculiar facts and circumstances, we are unable to accept the contention of the learned counsel for respondent-Revenue that insertion of clause (c) to (I) under Section 200A(1) should be treated as retroactive in character and not prospective.

22. *It is hardly required to be stated that, as per the well established principles of interpretation of statute, unless it is expressly provided or impliedly demonstrated, any provision of statute is to be read as having prospective effect and not retrospective effect. Linder the circumstances, we find that substitution made by clause (c) to (I) of sub-section (1) of Section 200A can be read as having prospective effect and not having retroactive character 01. effect. Resultantly, the demand under Section 200A for computation and intimation for the payn-2ent of fee under Section 234E could not be made in purported exercise of power under Section 200A by the respondent for the period of the respective assessment year prior to .6.2015. However, we make it clear that, if any deductor has already paid the fee after intimation received under Section 200A, the aforesaid view will not permit the*

deductor to reopen the said question unless he has made payment under protest.

23. *In view of the aforesaid observation and discussion, since the impugned intimation given by the respondent-Department against all the appellants under Section 200A are so far as they are for the period prior to 1.6.2015 can be said as without any authority under law. Hence, the same can be said as illegal and invalid.*

24. *If the facts of the present cases are examined in light of the aforesaid observation and discussion, it appears that in all matters, the intimation given in purported exercise of power under Section 200A are in respect of fees under Section 234E for the period prior to 1.6.2015. As such, it is on account of the intimation given making demand of the fees in purported exercise of power under Section 200A, the same has necessitated the appellant-original petitioner to challenge the validity of Section 234E of the Act. In view of the reasons recorded by us hereinabove, when the amendment made under Section 200A of the Act which has come into effect on 1.6.2015 is held to be having prospective effect, no computation of fee for the demand or the intimation for the fee under Section 234E could be made for the TDS deducted for the respective assessment year prior to 1.6.2015. Hence, the demand notices under Section 200A by the respondent-authority for intimation for payment of fee under Section 234E can be said as without any authority of law and the same are quashed and set aside to that extent.*

25. *As such, as recorded earlier, it is on account of the intimation received under Section 200A for making computation and demand of fees under Section 234E, the same has necessitated the appellant to challenge the constitutional validity of Section 234E. When the intimation of the demand notices under Section 200A is held to be without authority of law so far as it relates to computation and demand of fee under Section 234E, we find that the question of further scrutiny for testing the constitutional validity of Section 234E would be rendered as an academic exercise because there would not be any cause on the part of the petitioners to continue to maintain the challenge to constitutional validity under Section 234E of the Act. At this stage, we may also record that the learned counsels appearing for the appellant had also declared that if the impugned notices under Section 200A are set aside, so far as it relates to computation and intimation for payment of fee under Section 234E, the appellant-petitioners would not press the challenge to the constitutional validity of Section 234E of the Act. But,*

they submitted that the question of constitutional validity of Section 234E may be kept open to be considered by the Division Bench and the Judgment of the learned Single Judge may not conclude the constitutional validity of Section 234E of the Act.

26. Under these circumstances, we find that no further discussion would be required for examining the constitutional validity of Section 234E of the Act. Save and except to observe that the question of constitutional validity of Section 234E of the Act before the Division Bench of this Court shall remain open and shall not be treated, as concluded.

27. In view of the aforesaid observations and discussion, the impugned notices under Section 200A of the Act for computation and intimation for payment of fee under Section 234E as they relate to for the period of the tax deducted prior to 1.6.2015 are set aside. It is clarified that the present judgment would not be interpreted to mean that even if the payment of the fees under Section 234E already made as per demand/intimation under Section 200A of the Act for the TDS for the period prior to 01.04.2015 is permitted to be reopened for claiming refund. The ice-77nent will have prospective effect accordingly. It is further observed that the question of constitutional validity of Section 234E shall remain open to be considered by the Division Bench and shall not get concluded by the order of the learned Single Judge.”

5.3.3 Considering the above decision of the Hon'ble High Court of judicature in the case of Fatheraj Singhvi and Others Vs. Union of India (supra), it is clear that the assessee has a favourable case on merits. When there is a decision of the jurisdictional High Court, judicial discipline and propriety requires that we are duty bound to follow the same and therefore, with due respect, the decision of the Hon'ble Gujarat High Court cited by the learned DR (supra) will not prevail. In this view of the matter and in the facts and circumstances of the case, as discussed above, we are of the considered opinion that the aforesaid decision of the Hon'ble Karnataka High

Court in the case of Fatheraj Singhvi and Others (supra) is squarely applicable to the facts of the case on hand.

6.0 CONDONATION OF DELAY IN FILING APPEALS BEFORE CIT(A)

6.1 On the issue of condonation of delay on the part of the assessee in filing these appeals before the CIT(A) in the case on hand, it is settled principle, upheld and followed in a catena of decisions that the expression “sufficient cause” ought to be interpreted in a manner which subserves and advances the cause of substantial justice. A case with arguable / favourable points / contentions on merits should not be shut out on the presumption of limitation, leading to such a case being thrown out at the threshold itself in limine. The Hon’ble Apex Court in the case of Collector, Land Acquisition Vs. MST Katiji and Others (1987) 167 ITR 471 (SC), while laying down the principles for considering matters of condonation of delay in filing appeals, has stated that substantial justice should prevail over technical considerations. Considering the aforesaid principles laid down by the Hon’ble Apex Court, the facts and peculiar circumstances of the case on hand, we are of the considered opinion that this is a fit case for condoning the delay in filing the nine appeals before the CIT(A).

6.2 In this regard, we have perused the judicial pronouncements cited by the learned DR for Revenue and are of the view that they are distinguishable on facts and are not directly applicable to the assessee’s case.

6.2.1 In the case of Somerset Place Co-operative Housing Society Ltd., Vs. ITO (supra), the assessee decided not to file appeal against the order of the Tribunal on the issue of mutuality and it succeeded on the same issue in later years in its own case. Having accepted the stand of Revenue in the earlier years, the assessee filed belated appeals after a favourable decision was received in the later year, thereby seeking to re-open an appeal which had attained finality. However, in the case on hand, there was lack of clarity on the issue of levy of late fees under section 234E of the Act through intimation under section 200A of the Act. The issue was under challenge in the Court and the appeals were filed once the decision in the matter was rendered by the Hon'ble jurisdictional High Court (supra). Therefore, in our view, the facts of the cited case are different and distinguishable.

6.2.2 Similarly, in the case of A. N. Mafatlal (HUF) (supra), the assessee had declared capital gains from transfer of agricultural land in the return of income. After having admitted capital gains in the return, the assessee sought to file appeal against the same belatedly, based on a High Court decision rendered later. However, in the case on hand, the levy of late fee under section 234E of the Act was charged by Revenue and there was lack of clarity on the issue. The said issue was under challenge in Courts and the appeals were filed after the decision was rendered by the jurisdictional High Court (supra). Therefore, the facts are different and distinguishable.

6.3 We also find merit in the contention of the assessee that the CIT(A) has factually misconstrued the observations of the Hon'ble Karnataka High Court in the case of Fatheraj Singhvi (supra) that the decision does not mean that where the levy of late fees under section 234E of the Act has not been paid, the case should not be re-opened / appeals. There is nothing in the order of the Hon'ble High Court to imply that appeals cannot be filed on such intimations under section 200A levying late fee under section 234E of the Act. All that the order of the Hon'ble High Court has said is that the cases in which the levy has been paid shall not be re-opened to process refunds. The assessee's case does not fall under that category, as the assessee has not paid the levy of late fees under section 234E of the Act and therefore the question of re-opening the case on hand in view of these 9 appeals to grant refund would not arise.

6.4 In view of the facts and circumstances of the case, as discussed above, and in the light of the decision of the Hon'ble Apex Court in the case of MST Katiji and Others (supra) and of the Hon'ble jurisdictional High Court in the case of Fatheraj Singhvi (supra), we are of the considered opinion that this is a fit case for condonation of delay by the assessee in filing these 9 appeals before the CIT(A) and accordingly condone the said delay. We also deem it appropriate to remand the issue of levy of fee under section 234E of the Act through intimation under section 200A which is in consideration before us to the file of the CIT(A) for examination and adjudication on merits

and in accordance with law. Needless to add, the CIT(A) shall afford the assessee reasonable opportunity of being heard and to submit details / submissions required in the matter, which shall be duly considered before deciding the issue.

7. In the result, all nine appeals filed by the assessee for Assessment Years 2013-14 to 2015-16 are treated as allowed for statistical purposes.

Pronounced in the open court on 17.01.2019.

Sd/-
(N. V. VASUDEVAN)
Vice President

Sd/-
(JASON P BOAZ)
Accountant Member

Bangalore.

Dated: 17.01.2019.

/NS/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.