

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

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA Nos.2320/Del/2016 & 2321/Del/2016
Assessment Year : 2014-15

M/s Kam Air Co.Ltd.,
I-84B, Ground Floor,
Lajpat Nagar-II,
New Delhi – 110 024.
PAN : AADCK0451D.
(Appellant)

Vs. Deputy Commissioner of
Income Tax,
CPC-TDS,
Vaishali, Ghaziabad.
(Respondent)

Appellant by : Shri V. Raj Kumar, Advocate.
Respondent by : Shri S.S. Rana, CIT-DR.

Date of hearing : 24.04.2019
Date of pronouncement : 07.05.2019

ORDER

PER G.D. AGRAWAL, VICE PRESIDENT :-

These two appeals by the assessee for the assessment year 2014-15 are directed against the order of learned CIT(A)-41, New Delhi dated 25th January, 2016.

2. The only ground raised in this appeal by the assessee is against the levy of late fee under Section 234E of the Income-tax Act, 1961 amounting to ₹85,600/- and ₹76,880/-.

3. We have carefully considered the arguments of both the sides and perused the material placed before us. We find that on this issue, there are contrary views – one by Hon'ble Gujarat High Court in the case of Rajesh Kourani Vs. Union of India – (2017) 83 taxmann.com 137 in favour of the Revenue, and the other of Hon'ble Karnataka High

Court in the case of Fatheraj Singhvi – (2016) 73 taxmann.com 252 in favour of the assessee. It is settled law that when two views are possible, the view in favour of the assessee is to be adopted. We, therefore, respectfully following the decision of Hon'ble Karnataka High Court in the case of Fatheraj Singhvi (supra), hold that the levy of fee under Section 234E prior to 1st June, 2015 was not sustainable. Accordingly, we delete the same.

4. In the result, the appeals of the assessee are allowed.
Decision pronounced in the open Court on 07.05.2019.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(G.D. AGRAWAL)
VICE PRESIDENT

VK.

Copy forwarded to: -

1. Appellant : **M/s Kam Air Co.Ltd.,
I-84B, Ground Floor, Lajpat Nagar-II,
New Delhi – 110 024.**
2. Respondent : **Deputy Commissioner of Income Tax,
CPC-TDS, Vaishali, Ghaziabad.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar