



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos.22 to 24/CTK/2018

Financial Year : 2015-16

Executive Engineer, Mega Lift Projects, Jeypore.	Vs.	ACIT, CPC, TDS, Ghaziabad
PAN/GIR No.BBNEO 0755 G/BBXPP 6591 C		
(Appellant)	..	(Respondent)

Assessee by : Shri Shiv Suman Murmu, AR
Revenue by : Shri Subhendu Dutta, DR

Date of Hearing : 01/08/ 2019

Date of Pronouncement : 5/08/ 2019

ORDER

Per L.P.Sahu, AM

These are appeals filed by the assessee against the separate orders all dated 18.10.2017 passed by the CIT(A)-1, Bhubaneswar out of order passed u/s 200A of the I.T.Act, 1961 on 11.8.2016 by ACIT, CPC-TDS, Ghaziabad.

2. The facts are that the assessee has been treated as an assessee in default for short deduction of TDS for an amount of Rs.485.68 and interest thereon of Rs.56.00. Further, late filing

fee of Rs.3254/- u/s.234E has been levied for the 2nd quarter for delayed filing of 26Q statement. Similarly, for the 3rd quarter, late filing fee of Rs.37,000/- u/s.234E has been levied for delayed filing of 26Q statement and Rs.16,000/- u/s.234E has been levied for delay filing of 26Q statement for the 4th quarter for the financial year 2015-16.

3. On appeal, the CIT(A) confirmed the action of the ACIT, CPC-TDS, Ghaziabad.

4. At the time of hearing, Id A.R. of the assessee contended that the default committed by the assessee is due to some compelling circumstances and the default is not intentional, therefore, the late fee charged u/s.234E for the above quarters should be deleted.

5. On the other hand, Id D.R. justified the action of the lower authorities.

6. We have heard the rival submissions and perused the record of the case. In the instant case, the assessee filed the TDS returns in Form No.26Q for the 2nd quarter, 3rd quarter and 4th quarter for the financial year 2015-16 on 3.8.2016 and the same was proceed by ACIT-CPC-TDS, Ghaziabad and intimation was issued and thereafter order was passed on 11.8.2016 u/s.200A of

the Act. Therefore, both the filing of return and processing of return has happened much after 1.6.2015 of the date of assumption by the AO u/s.200A(1)(c) to levy fees of u/s.234E of the Act. Even the quarterly returns pertain to quarter ending 31.3.2016, the facts remain that there is default even after 1.6.2015 as the return was filed 4.8.2016. The provisions provide that where an assessee filed his return for the period falling after 1.6.2015 and there is delay on his part, he will suffer the levy of fees. In view of above, the Assessing Officer has acquired the jurisdiction to pay fees as on 1.6.2015 and he can levy fees so mandated u/s.234E of the Act. Considering the facts in entirety, we are of the view that the CIT(A) is justified in confirming the late fees charged u/s.234E of the Act and dismiss the grounds of appeal of the assessee.

7. In the result, all the appeals filed by the assessee are dismissed.

Order pronounced on 5/08/2019.

Sd/-
(Chandra Mohan Garg)
JUDICIAL MEMBER

sd/-
(Laxmi Prasad Sahu)
ACCOUNTANT MEMBER

Cuttack; Dated 5/08/2019
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The appellant: Executive Engineer, Mega Lift Projects, Jeypore.
2. The Respondent. ACIT, CPC, TDS, Ghaziabad
3. The CIT(A)--1, Bhubaneswar
4. Pr.CIT- 1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack