

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER
AND**

SMT. BEENA PILLAI, JUDICIAL MEMBER

**ITA No.3118(Bang)/2018
(Assessment Year : 2013-14)**

M/s Dynascan Inspection System Company,
No.39(P)I, II Phase, Hosur Ropad,
Electronic City,
Bangalore-560 100.
Pan No.AABFD8785E

Appellant

Vs

The Asst. Commissioner of Income Tax,
TDS, CPC,
Bangalore

Respondent

**Appellant by : Shri K.S.Dinesh, CA
Revenue by : Smt. P.Renugadevi, JCIT**

**Date of hearing : 27-11-2019
Date of pronouncement : 29-11-2019**

ORDER

PER SMT BEENA PILLAI, JUDICIAL MEMBER:

Present appeal has been filed by assessee against order dated 24/09/18 passed by Ld. CIT (A)-3, Bangalore for assessment year 2013-14 on following grounds of appeal:

1. *The learned Commissioner of Income tax (Appeals) was wrong in holding that the appellant should have filed the appeal challenging the order u/s200A of the Act and not the orders u154 of the Act..*

2. *The ld. Commissioner of Income tax (Appeals) order is entirely contradictory to law and facts of the case as the levy under section 234E is settled by the Hon'ble Karnataka High Court decision in the case of Fatheraj Singvi and other Vs Union of India reported in 2016(86) Kar.L.J.563(HC)(DB)*

The appellant craves leave to add, alter, amend or withdraw any ground or grounds of appeal before or at the time of hearing of this appeal.

2. Brief facts of the case are as under:

Assessee is a firm having registered office at Bangalore carrying on business of manufacture and profile projectors which is basically testing and measuring equipment.

2.1 During the year under consideration, assessee filed second and third quarterly return electronically with delay which was processed under section 200 of the Act, and demand of Rs.41,800/- as late fee for belated filing of TDS return under section 234E of the Act, along with Rs.7,200/- as interest on late payment was levied.

3. Aggrieved, by demand raised, assessee filed rectification application under section 154 for discharging interest on late payment which was processed on 26/01/2018, without there being any change.

3.1 Assessee challenges order under section 200 A of the Act for levy of late fee under section 234 for delayed filing of TDS return, as it is effective from 01/06/2015. Ld.AR placed reliance upon decision of Hon'ble Karnataka High Court in case of *Fatheraj Singvi and Ors. Vs*

UOI, reported in (2016) (86) KAR.L.G 563 (HC) (DB). It has been submitted that section 200A has been interpreted by *Hon'ble Court* to be applicable only for assessment years 2015-16 onwards. He thus submitted that demand raised vide orders under section 200A of the Act relating to late filing fee along with consequent interest under section 220(2) of the Act, are not applicable for year under consideration.

4. On the contrary, Ld.Sr.DR though, supported the order passed by authorities below could not controvert the observations of *Hon'ble High Court* referred by Ld.AR. However, she raised objection that assessee has filed one appeal before this *Tribunal*, for demand raised, for two quarters for year under consideration. She submitted that though orders passed by authorities below are consolidated, appeal before this *Tribunal* will have to be separately filed for each quarter.

5. We have perused submissions advanced by both sides in light of records placed before us.

Objection raised by Ld.Sr.DR regarding one appeal filed by assessee challenging demand raised for two different quarters for year under consideration cannot be ignored as procedurally, two separate appeals should to be filed before this *Tribunal*.

5.1 We therefore consider present appeal filed by assessee relating to second-quarter and direct to file appeal in respect of third-quarter along with application for condonation of delay, with liberty to condone.

5.2 As regards applicability of section 200 A read with section 220 (2) of the Act, is concerned, *Hon'ble Karnataka High Court (supra)* held it to be prospective in nature. Respectfully following the same we quash and set-aside notice dated 25-01-2018 issued under section 200A for

payment of late fee under section 234E for quarter two, to be without jurisdiction and authority of law.

Accordingly grounds raised by assessee is allowed.

In the result appeal filed by assessee stands allowed.

Order pronounced in the open court on 29-11-2019

Sd/-

(B.R.BASKARAN)
ACCOUNTANT MEMBER

Dated: 29-11-2019

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

By Order
Asst. Registrar