

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

**BEFORE SHRI D.KARUNAKARA RAO, ACCOUNTANT MEMBER
AND
SHRI V.DURGA RAO, JUDICIAL MEMBER**

ITA No.	A.Y.	Appellant	Respondent
1737/Hyd/18	2013-14 (Quarter)	M/s.Zen Chemiconsultech Private Limited, HYDERABAD [PAN: AAACZ0675M]	Income Tax Officer (TDS), TDS Ward-2(4), HYDERABAD
1738/Hyd/18	2013-14 (Quarter)		
1739/Hyd/18	2013-14 (Quarter)		

For Assessee : NONE
For Revenue : Shri D.J.P.Anand, DR

Date of Hearing : 28-11-2019
Date of Pronouncement : 04-12-2019

ORDER

PER D.KARUNAKARA RAO, A.M. :

There are three appeals under consideration, involved for the AY.2013-14 (different quarters). These orders are passed u/s.200A of the Income Tax Act [Act].

2. At the outset, it is brought to our notice that there is none appeared to represent the assessee.

3. Ld.DR for the Revenue fairly submitted that it is a covered issue and the issue relates to levy of late fee u/s.234E of the Act, when there is no power granted by the Statute at the relevant point

of time to the Assessing Officer (AO) u/s.200A of the Act. Mentioning that this is the case pertaining to the quarter for the AY.2013-14, under the relevant provisions of the Act i.e., u/s.200A of the Act, AO does not have the power to levy such late fee u/s.234E of the Act.

3.1. Further, Ld.DR fairly submitted that the provisions of the Act were amended by the Finance Act, 2015 w.e.f.01-06-2015. This amendment being prospective, the levy of such late fee by the AO u/s.234E of the Act, prior to the date of the said amendment are unsustainable in law. Therefore, the late fee has to be deleted for want of jurisdiction to the AO.

4. Now, the said issue is covered in favour of assessee by the decision of the Co-ordinate Bench of ITAT, Pune Tribunal in the case of C&M Farming Ltd., Vs. ACIT, in ITA Nos.2008 to 2017/Pun/2017, dt.06-11-2019, wherein the undersigned is a party (AM). In the said case, the Co-ordinate Bench has followed the decision of another Co-ordinate Bench in the case of Medical Superintendent Rural Hospital, DOBI BK Vs. DCIT, CPC(TDS) reported in (2018) [100 taxmann.com 78] (Pune-Trib). For the sake of completeness, relevant lines of the order dt.06-11-2019 are extracted here under:

“8. Heard both sides and perused the material available on record. We find the issue raised in the present appeal is similar to the issue raised by the Co-ordinate Bench of the Tribunal in the case of Medical Superintendent Rural Hospital, DOBI BK(supra), wherein the co-ordinate Bench of the Tribunal held that charging of late fee u/s 234E of the Act is not maintainable even if the assessee files TDS returns belatedly and the Assessing Officer issues intimation u/s 200A of the Act after 01.06.2015 charging late filing fee u/s 234E of the Act. Therefore, we find force in the arguments of Shri Kishore Phadke, Ld.A.R. and the imposition of late fee

u/s 200A r.w 234E of the Act confirmed by Ld.CIT(A) is set aside. Thus, additional ground raised by the assessee is allowed”.

4.1. Since the facts before us are identical to one as decided by the Co-ordinate Bench of the Tribunal, respectfully following the same, we are of the opinion that the demand of late fee is not maintainable even if the returns of the TDS were filed after 01-06-2015, the order charging late filing fee was passed after 01-06-2015. Hence, we set aside the order of Ld.CIT(A) and allow the Grounds raised by assessee for all the Quarters.

5. In the result, all the appeals of assessee are allowed.

Order pronounced in the open court on 4th December, 2019

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Sd/-
(D. KARUNAKARA RAO)
ACCOUNTANT MEMBER

Hyderabad, Dated 4th December, 2019

Copy to :

- 1. M/s.Zen Chemiconsultech Private Limited, Plot No.35, Zen House, Swamy Ayyappa Society, Madhapur, Hyderabad.*
- 2. The Income Tax Officer (TDS), TDS Ward-2(4), Hyderabad.*
- 3. CIT(Appeals)-8, Hyderabad.*
- 4. CIT(TDS), Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*