

32-43	1492/PUN/2019 to 1503/PUN/2019	Shree Samarth Tech Process Engineering Pvt. Ltd. Gat No.53, Chimbli, Tal. Khed, Dist. Pune-412105 PAN:AAPCS4543Q		2013-14 2013-14 2013-14 2013-14 2013-14 2013-14 2014-15 2014-15 2014-15 2014-15 2014-15 2015-16	Q2 Q3 Q4 Q2 Q3 Q4 Q1 Q4 Q1 Q2 Q3 Q4	24Q 24Q 24Q 26Q 26Q 26Q 24Q 24Q 26Q 26Q 26Q 27Q
44-58	1477/PUN/2019 to 1491/PUN/2019	Susanta Kumar Sarkar Gayatri Erectors, Telco Material Gate, Pimpri, Pune-411018 PAN: AKVPS2686K	ACIT, CPC-TDS, Ghaziabad.	2013-14 2013-14 2013-14 2013-14 2013-14 2013-14 2014-15 2014-15 2014-15 2014-15 2014-15 2015-16 2015-16 2015-16 2015-16	Q2 Q3 Q4 Q2 Q3 Q4 Q4 Q1 Q2 Q3 Q4 Q1 Q2 Q3 Q4	24Q 24Q 24Q 26Q 26Q 26Q 24Q 26Q 26Q 26Q 26Q 26Q 26Q 26Q 26Q
59-73	1457/PUN/2019 to 1471/PUN/2019	Trishul Service Station Pvt. Ltd., Plot No.T 163, MIDC, Bhosari, Pune - 411026 PAN: AACCT0219R	ACIT, CPC-TDS, Ghaziabad.	2013-14 2013-14 2013-14 2013-14 2013-14 2013-14 2014-15 2014-15 2014-15 2014-15 2014-15 2015-16 2015-16 2015-16 2015-16	Q2 Q3 Q4 Q2 Q3 Q4 Q4 Q1 Q2 Q3 Q4 Q3 Q1 Q2 Q3	24Q 24Q 24Q 26Q 26Q 26Q 24Q 26Q 26Q 26Q 26Q 24Q 26Q 26Q 26Q
74-78	1472/PUN/2019 to 1476/PUN/2019	Vistar Electronics Pvt. Ltd., Plot No.T 163, MIDC, Bhosari, Pune PAN: AAACV9821B	ACIT, CPC-TDS, Ghaziabad.	2013-14 2013-14 2014-15 2014-15 2015-16	Q4 Q4 Q1 Q2 Q4	24Q 26Q 26Q 26Q 24Q

Assessee by : Shri M.K. Kulkarni

Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 13.12.2019

घोषणा की तारीख / Date of Pronouncement : 13.12.2019

आदेश / ORDER**PER BENCH:**

These bunch of 78 appeals preferred by the different assessee emanates from the respective orders of the Ld. CIT(Appeal)'s for the respective assessment years captioned hereinabove and as per the grounds of appeal on record.

2. These cases were heard together. Since facts common and issues are similar, these cases are being disposed of vide this consolidated order.

3. At the very outset, we notice that some of the appeals are time barred by 38 days. The assessee has filed an affidavit along with condonation of delay petition. We have gone through the condonation petition as well as the affidavit and have found that reasons specified therein are justified and that the delay cannot be attributed to the deliberate conduct of the assessee neither through intention nor through action. The reasons for delay in filing the appeals late were beyond the control of the assessee and even the Ld. DR stated that he has no objection, if the delay is condoned. In view of the matter, we condone the delay and proceed to hear the appeals on merits.

4. In these set of appeals intimation had been issued by the Assessing Officer u/s.200A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') wherein fees payable u/s.234E of the Act has been charged by the Assessing Officer.

5. The Ld. AR of the assessee submitted before us that in respect of all these cases, it may be noted that the Legislature had inserted Clause (c) to Section 200A(1) of the Act specifically w.e.f. 01.06.2015 and the case of the assessee before us is that in such circumstances where the said amendment was introduced w.e.f 01.06.2015 and there was nothing to suggest that the said amendment was clarificatory or retrospective in nature, then no such late fees could be charged u/s.234E of the Act in respect of TDS statements which were filed prior to 01.06.2015. It was further submitted by the Ld. AR of the assessee that in all these cases TDS statements were filed prior to 01.06.2015 and therefore, the Revenue Authorities could not have levied late fees u/s.234E of the Act.

6. Per contra, the Ld. DR submitted that in these set of appeals, the respective Ld. CIT(Appeal)'s had dismissed these appeals filed before them on the ground of substantial late filing of the appeals and without going into the merits of the cases. That further these appeals were time barred and the assessee could not establish the reasonableness for such substantial delay in filing of these appeals before the Ld. CIT(appeal)'s. Therefore, the Ld. DR submitted that the matter may be restored back to the respective files of the Ld. CIT(Appeal)'s for adjudication on merits.

7. We have perused the case records and heard the rival contentions. We have also given considerable thought to the facts and circumstances involved in all these cases. It is observed on perusal of Section 200 sub section (3) r.w.s. 206C sub-section (3) proviso that when the assessee has deducted TDS, he has to deposit the amount in the Government account and after doing that he has to furnish the TDS statement before the Income Tax Authorities within the prescribed time limit. If there is late filing of those TDS

statements then the Revenue Authorities may charge late filing fees u/s.234E of the Act. That however, this power the Legislature was provided to the Authorities by inserting Clause (c) to Section 200A(1) of the Act w.e.f. 01.06.2015. There are plethora of cases which decided this issue that if TDS statements were filed prior to 01.06.2015 then there cannot be any levy of late fees u/s.234E of the Act. That however, TDS statements filed after 01.06.2015 would attract the late filing fees as per Section 234E of the Act. We further observe that in these instant cases before us, in some of the cases, TDS statements were filed prior to 01.06.2015 while in some other cases, they were filed after 01.06.2015. This is the position on merits. That however, the Ld. CIT(Appeal)'s in their respective orders has not dealt with the merits of these cases and has dismissed the appeals of the assessee on the ground that there is substantial delay in filing of these appeals and also for the reason that the reasonableness attributed to that delay could not be established by the assessees therein.

8. We find that the Hon'ble Apex Court in the case of Anil Kumar Nehru Vs. ACIT (2018) 103 CCH 0231 ISCC has held that even if there is substantial delay in filing of appeals it can be condoned on the ground that it involves a question of law which goes into the root of the matter. In these set of appeals before us, it pertains to a legal question whether late fees would be leviable on the assessee or not depending upon the merits involved in each case.

Taking the totality of facts and circumstances into consideration, in the interest of justice, we set aside the respective orders of the Ld. CIT(Appeal)'s in all these cases and restore them back to their respective files to examine the matter on merits involving legal ground of Section 234E of the Act and also following the decision of the Hon'ble Apex Court (supra.), the Ld.

CIT(Appeal)'s would adjudicate these cases in compliance with the principles of natural justice.

9. In the result, **all these set of appeals of the different assesseees are allowed for statistical purposes.**

Order pronounced on 13th day of December, 2019.

Sd/-
R.S.SYAL
VICE PRESIDENT

Sd/-
PARTHA SARATHI CHAUDHURY
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 13th December, 2019.

SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The concerned CIT(Appeals)
4. The concerned CIT.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	13.12.2019	Sr.PS/PS
2	Draft placed before author	13.12.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		