

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'D' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री  
श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND**  
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.2285, 2286 & 2287/Chny/2019  
निर्धारण वर्ष /Assessment Years: 2013-14, 2014-15 & 2015-16

M/s. Emgee Engineering and  
Construction Pvt. Limited,  
**New Address:**  
No.6/11, Brahadambal Street,  
Nungambakkam, Chennai – 600 034  
**[PAN: AADCE 0318H]**  
(अपीलार्थी/Appellant)

The Income Tax Officer  
TDS Ward-2(1)  
**Vs.** Aayakar Bhavan,  
Main Building, 2<sup>nd</sup> Floor,  
TDS Circle, 121 M.G. Road,  
Chennai – 600 034  
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr. V.S. Jayakumar, Advocate  
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anita, JCIT

सुनवाई की तारीख/Date of Hearing : 04.12.2019  
घोषणा की तारीख /Date of Pronouncement : 04.12.2019

**आदेश / ORDER**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

These are appeals filed by the Assessee against the order of the learned Commissioner of Income Tax (Appeals)-17, Chennai in ITA Nos.70 to 72/18-19 dated 31.05.2019 for the Assessment Year 2013-14, 2014-15 & 2015-16 respectively.

2. Shri V.S. Jayakumar, Advocate represented on behalf of the Assessee and Ms. R. Anita, JCIT represented on behalf of the Revenue.

3. It was submitted by the learned Authorized Representative that the assessee had filed appeals against the levy u/s.234E of the Income Tax Act, 1961. It was a submission that there was a delay in filing of the TDS returns by the assessee company and the returns were processed by the CPC-TDS u/s.200A by which the demands were raised on the assessee company u/s.234E for the delayed filing of the TDS returns. It was a submission that the issue was squarely covered by the decision of the Co-ordinate Bench of this Tribunal in the case of M/s. Asan Memorial Association in I.T.A. Nos.2345 to 2355/Chny/2018, wherein following the decision of the Hon'ble Gujarat High Court in the case of Rajesh Kourani (2017) 83 taxmann.com 137 (Guj.), it was held that the provision of Section 234E had been introduced w.e.f 01.06.2015 and consequently the same cannot be levied retrospectively. It was a submission that however the learned CIT(A) dismissed the appeal of the assessee on two grounds, (1) on account of the twenty days delay in filing of the appeals and (2) on account of recording that the appeals had been filed on the basis on the letter dated 22.06.2018 and not the order. It was a submission that as the demand was raised on the assessee by the CPC-TDS, no specific order was available. It was a submission that the issues in the appeals may be restored to the file of the learned CIT(A) for adjudication on merits.

4. In reply, the learned Departmental Representative vehemently supported the order of the learned Assessing Officer and the learned CIT(A). It was a submission that the letter dated 22.06.2018 could not be considered

as an order and consequently there was no error in the order of the learned CIT(A).

5. We have considered the rival submission and perused the materials available on record.

6. A perusal of the facts in the present case clearly shows that the appeals has been filed against the computer extract of the TDS traces. Admittedly, this is not an order for the purpose of filing an appeal before the learned CIT(A). In the circumstances, we are of the view that the order of the learned CIT(A) rejecting the appeals on the grounds that the same were not filed against the order of levy is upheld. However, liberty is granted to the assessee to file proper appeals before the learned CIT(A) in accordance of law, after obtaining the appropriate orders, wherein the levy has been made on the assessee, by following the procedures provided under law. In the circumstances, the appeals of the assessee stands dismissed.

7. In the result, the appeals of the assessee are dismissed.

*Order pronounced in the open Court on 4<sup>th</sup> December, 2019 in Chennai.*

Sd/-

(श्री एस. जयरामन)

**(S. JAYARAMAN)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 4<sup>th</sup> December, 2019.

IA, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF

Sd/-

(जॉर्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य/JUDICIAL MEMBER