

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

**Before Shri L. P. Sahu, Accountant Member
and Shri Ravish Sood, Judicial Member**

**ITA Nos. 446 & 447/Asr./2018
(Assessment Year: 2014-15)**

Advance Medical Imaging
& Research Pvt. Ltd.,
C/o Adesh diagnostic,
Near Bus Stand, Bathinda

Vs.

The Deputy Commissioner of
Income Tax, CPC, TDS
Ghaziabad

PAN/TAN – AMRA 13025F

(Appellant)

(Respondent)

Appellant by: None

Respondent by: Shri Charan Dass, D.R.

Date of Hearing: 04.02.2020

Date of Pronouncement: 05.02.2020

ORDER

PER RAVISH SOOD, JM

The present appeals filed by the assessee are directed against the consolidated order passed by the CIT(A), Bathinda, dated 18.05.2018, which in turn arises from the respective intimations received from the Assistant Commissioner of Income Tax, Central Processing Cell-TDS, Ghaziabad u/s 200A of the Income Tax Act, 1961, (for short 'IT Act') for the third quarter (Q3) and the fourth quarter (Q4) both dated 31.08.2013.

2. Briefly stated, the assessee had delayed filing of its respective statements of tax deduction at source in 'Form 26Q' for the third

quarter (Q3) and the fourth quarter (Q4) for assessment year 2013-14. Resultantly, the ACIT, Central Processing Cell-TDS levied late filing fees of Rs.16,333/- for both the said quarters.

3. Aggrieved, the assessee assailed the imposition of late filing fees u/s 234E before the CIT(A). Observing, that no infirmity did arise from the order of the AO levying late filing fee u/s 234E of the Act, the CIT(A) dismissed the appeals.

4. The assessee being aggrieved with the order passed by the CIT(A) for the aforementioned quarters viz. 'Q3' and 'Q4' for assessment year 2013-14 has carried the matter in appeal before us. We find that the assessee appellant despite having been intimated about the hearing of the appeal have failed to put up an appearance before us. In the backdrop of the aforesaid facts, we are constrained to proceed with as per rule 24 of the Appellate Tribunal Rules 1963 and dispose off the appeals after hearing the respondent revenue and perusing the orders of the lower authorities.

5. Per contra, the Ld. Departmental Representative (for short 'D.R') relied on the orders of the lower authorities. It was submitted by the Ld. D.R that as the respective statements of tax deduction at source for the aforementioned quarters viz. 'Q3' and 'Q4' were filed beyond the stipulated time period, therefore, the AO was totally justified in levying late filing fees u/s 234E of the Act.

6. We have heard the Ld. D.R. and also perused the orders of the lower authorities. Admittedly, it is a matter of fact borne from the records that the assessee had delayed the filing of the statements of tax deduction at source in 'Form 26Q' for both of the aforesaid quarters i.e., 'Q3' and 'Q4' relevant to assessment year 2014-15. On a

perusal of the records, it stands revealed that the statements of tax deduction at source for both the said quarters were filed by the assessee in 'Form 26Q' on 26.08.2014, which thereafter were processed u/s 200A of the IT Act on 31.08.2014. We find that the **Hon'ble High Court of Karnataka** in the case of **Fatheraj Singhvi & Ors. Vs. Union of India (2016) 289 CTR 602 (Kar.)** had concluded, that the intimation under Sec.200A of the I.T. Act computing fee under Sec.234E to the extent the same related to the period of the tax deducted prior to 01.06.2015 was liable to be set aside. The aforesaid judgment of the **Hon'ble High Court of Karnataka** had thereafter been relied upon by the **ITAT, Chandigarh** in the case of **Sonalac Paints & Coatings Ltd. Vs. DCIT (2018) 167 DTR 83 (Chd.)**. In the aforesaid case, it was observed by the Tribunal that levy of fees under Sec.234E while processing the TDS returns under Sec.200A prior to 01.06.2015 was without any authority of law. On the basis of its aforesaid observations, the Tribunal had concluded that the fees levied under Sec.234E prior to 01.06.2015 in the intimations made under Sec. 200A was without any authority of law and was liable to be deleted. Apart therefrom, we find that the issue involved in the appeal before us is also covered by an order of the **ITAT, Amritsar** in the case of **Tata Rice Mills Vs. ACIT (CPC), TDS Ghaziabad (ITA No. 395/ASR/2016; dated 25.10.2017)**. In the aforementioned case, it was observed by the Tribunal that the assessee had filed its statement of tax deduction at source for the 'second quarter' relevant to Financial year 2014-15 on 19th June, 2015, which was thereafter processed on 23.06.2015 by the ACIT-TDS, CPC and a late fee under Sec. 234E of Rs. 49,400/- was charged in the intimation issued under Sec. 200A of the I.T. Act. It was observed by the Tribunal that as the amendment made to Sec.200A was effective from 01.06.2015 and

applicable prospectively, hence no computation of fee under Sec.234E could be made for the TDS deducted prior to 01.06.2015.

7. We have given a thoughtful consideration to the issue before us and finding ourselves as being in agreement with the view taken by the Tribunal in the case of Tata Rice Mills (supra), are of the considered view that the ACIT-TDS, CPC Ghaziabad in the case before us had erred in levying fees under Sec.234E in respect of tax deducted at source for both of the aforesaid quarters i.e 'Q3' and 'Q4' pertaining to F.Y. 2013-14 i.e prior to 01.06.2015. We thus not being persuaded to subscribe to the view taken by the CIT(A) who had upheld the levy of fees by the A.O, therefore, 'set aside' his order and vacate the demand raised under Sec.234E in the hands of the assessee for both of the aforesaid quarters for the year under consideration.

8. Accordingly, the fees levied by the ACIT, CPC-Ghaziabad under Sec.234E for 'Q3' (Rs.16,333/-) and 'Q4' (Rs.16,333/-) for F.Y. 2013-14 are deleted.

9. Resultantly, both the appeals filed by the assessee for A.Y. 2014-15 i.e. ITA Nos. 446 & 447/Asr/2018 are allowed in terms of our aforesaid observations.

Order pronounced in the open court on 05/02/2020

Sd/-
(L. P. Sahu)
ACCOUNTANT MEMBER
Place: Amritsar; Dated 05.02.2020
GP/Sr PS

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

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

1. **अपीलार्थी** / The Appellant
2. **प्रत्यर्थी** / The Respondent.

3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. DR, ITAT, Amritsar Bench, Amritsar
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ITAT, Amritsar.
Bench, Amritsar