

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.3422 to 3425/Bang/2018
Assessment years : 2013 – 14 to 2016 – 17

M/s. Bombay Rayon Fashions Limited, KIADB Apparel Park, Sl. No. 21 – 32, Near Railway Station, Doddaballapur, Bengaluru – 561203. PAN/TAN : AAACM3447J/BLRB07772C	vs.	ACIT, CPC TDS, Ghaziabad
APPELLANT		RESPONDENT
Assessee by	:	None
Revenue by	:	Shri Tshering Ongda, Addl. CIT (DR)
Date of hearing	:	24.06.2020
Date of Pronouncement	:	26.06.2020

ORDER

Per A. K. Garodia, Accountant Member

These four appeals are filed by the assessee and these are directed against four separate Orders of CIT (A) – 13 Bengaluru all dated 28.11.2018.

2. These appeals were fixed for hearing on 23.06.2020 and notice of hearing was issued by RPAD and it has not come back unserved and therefore,

service of notice is presumed. None appeared on this date on behalf of the assessee. Hence, these appeals were adjourned to 24.06.2020 and this date of hearing was pronounced in open court. On 24.06.2020 also, none appeared on behalf of the assessee and therefore, these appeals were heard ex parte qua the assessee.

3. In these appeals, only one common issue is involved about levy u/s 234E of I T Act of Rs. 471,691/- for A. Y. 2013 – 14, Rs. 3,66,398/- for A. Y. 2014 – 15, Rs. 535,789/- for A. Y. 2015 – 16 and Rs. 333,000/- for A. Y. 2016 – 17. Learned DR of the Revenue supported the order of CIT (A). At this juncture, the bench pointed out that in Para 5.3 of his order, it is noted by CIT (A) that regarding delay in filing of these appeals before CIT (A), it was submitted by the assessee before CIT (A) that the assessee was not technically aware of the compliances relating to TDS but CIT (A) held that it cannot be treated as a sufficient cause for filing of the appeal after 1253 days. The bench pointed out that clause (c) in sub section (1) of section 200A was inserted by the Finance Act, 2015 w.e.f. 01.06.2015 and as per this clause only, demand u/s 200A can be raised in respect of Fees u/s 234E but in the present case, demands were raised by the AO u/s 200A in respect of Fees u/s 234E for A. Y. 2013 – 14 by order dated 05.01.2014, for A. Y. 2014 – 15 by various orders dated 20.03.2014 to 08.10.2014, for A. Y. 2015 – 16 by various orders dated 18.04.2015 to 14.12.2015 and for A. Y. 2016 – 17 by order dated 12.07.2017. The bench observed that except the order dated 12.07.2017 for A. Y. 2016 – 17, all other orders of the AO u/s 200A were passed prior to 01.06.2015 from the date when clause (c) in sub section (1) of section 200A was inserted by the Finance Act, 2015 as per which, demand u/s 200A can be raised in respect of Fees u/s 234E and under these facts, it is quite possible that the assessee

may be confused and therefore, the delay in filing these appeals should be condoned. In reply, learned DR of the revenue had nothing to say.

4. We have considered the submissions of learned DR of the revenue and in view of the discussion as above, we condone the delay in filing of appeal by the assessee before CIT (A) in these four years and set aside the impugned orders of CIT (A) and restore these matters to the file of CIT (A) for a decision on merit in all these four years. We find that in first three years, the CIT (A) has not decided the issue on merit and in A. Y. 2016 – 17, the issue on merit was also decided but since the appeals for earlier three years are being remanded to CIT (A), we feel it proper to remand the issue to CIT (A) for A. Y. 2016 – 17 also to ensure simultaneous decision on merit.

5. In the result, all four appeals of the assessee are allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(A.K. GARODIA)
Accountant Member

Bangalore,

Dated: 26th June, 2020.

/NS/*AKG

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| 1. Appellants | 2. Respondent | 3. CIT |
| 4. CIT(A) | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.