

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 7558/Del/2017 : Asstt. Year: 2014-15

Additional DIGP, CRPF Camp, Group Centre, Kadarpur, Gurgaon	Vs	DCIT, TDS Gurgaon
(APPELLANT)		(RESPONDENT)
PAN No. RTKA03796C		

Assessee by : None

Revenue by : Smt. Kirti. S., Sr. DR

Date of Hearing: 13.07.2021

Date of Pronouncement: 13.07.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been instituted by the assessee against the orders of Id. CIT (A)-2, Gurgaon dated 20.09.2017.

2. The DCIT(TDS-CPC) issued notice for payment of Rs.1,27,000/- for the payment of late fee u/s 200A of the Income Tax Act, 1961 for delay in filing of quarterly TDS statement for fourth quarter for the financial year 2013-14 & for all the quarters of F.Y. 2014-15.

3. The Id. CIT (A) held that the fee was leviable u/s 200A for filing of returns. The provisions of 200A(1)(c) inserted by the Finance Act 2015 w.e.f. 01.06.2015 reads as under:

"200A. (1) Where a statement of tax deduction at source or a correction statement has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(a) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement; or

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;"

4. The issue of levy of fee u/s 234E which was introduced w.e.f. 01.06.2015 has been examined in the context of its applicability whether retrospective or prospective.

5. The Hon'ble Karnataka High Court in case of Fatehraj Singhvi & Ors. vs. UOI & Ors. 2016 (9) TMI 964 is in favour of the assessee holding that the amendments brought in statute w.e.f. 01.06.2015 are prospective in nature and as such, notices issued u/s 200A of the Act for computation and intimation of payment of late filing fee u/s 234E of the Act relating to the period of tax deduction prior to 01.06.2015 was not maintainable.

6. At the same time, the Hon'ble Gujarat High Court in case of Rajesh Kourani vs. UOI (2017) 83 taxmann.com 137 has decided the issue against the assessee.

7. So, in these circumstances, we are of the considered view that following the decision rendered by Hon'ble Supreme Court in the case of Vegetable products Limited 88 ITR 192 (SC) that when there are conflicting decisions, the view taken in favour of the assessee should be followed, the impugned order passed by the Id. CIT (A) confirming the late fee levied by the AO u/s 200A read with section 234E as the defaults are prior to 01.06.2015, is not sustainable in the eyes of law, hence fee levied u/s 234E is ordered to be deleted.

8. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 13/07/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 13/07/2021

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR