

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.343 TO 350/Chny/2021
निर्धारण वर्ष/Assessment Years: 2014-15 [24Q - Q1 to Q4 and
26Q – Q1 to Q4]

M/s. Marshal Textiles (P) Ltd.,
Pallipalayam, Kunnathur, Gobi Main
Road, Getticheviur Post,
Gobichettipalayam 638 110.

Vs. The Assistant Commissioner of
Income Tax,
Central Processing Cell – TDS,
Ghaziabad.

[PAN:AABCM6646C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate, Erode
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 24.02.2022
घोषणा की तारीख /Date of Pronouncement : 24.02.2022

आदेश /ORDER

PER BENCH:

The bunch of 8 appeals filed by the assessee are directed against different orders passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), New Delhi dated 29.07.2021 pertain to assessment years 2014-15 (24Q - Q1 to Q4] and dated 13.08.2021 for 26Q - Q1 to Q4). Since, the facts are identical and issues are common, for the sake of convenience these appeals were heard together and are being disposed off, by this consolidated order.

2. Brief facts of the case are that for the financial year 2013-14, the assessee has filed TDS Quarterly returns in Form 24Q and 26Q beyond due date specified under the Act. The Assessing Officer has assessed TDS quarterly returns filed by the assessee under section 200A and levied late filing fee under section 234E of the Income Tax Act, 1961 ["Act" in short] for the delay in filing the said statements for all the assessment year. The assessee has challenged the levy of late filing fee under section 234E of the Act before the learned CIT(A). After considering the submissions of the assessee, the Id. CIT(A) dismissed the appeals.

3. We have heard both the parties, perused the materials available on record and gone through the orders of authorities below. The solitary issue that needs to be resolved in the given facts and circumstances of the case is whether the Assessing Officer can levy late fee prescribed under section 234E of the Act, when the quarterly return filed by the tax deductor for the period prior to 01.06.2015, when the law has been amended by Finance Act enabling the Assessing Officer to compute late fee while processing TDS returns under section 200A of the Act. The provisions of section 234E of the Act has been inserted to the statute by Finance Act with effect from 01.07.2012 and provides levy of late fee for

belated filing of quarterly return filed by the tax deductor. The Assessing Officer started levying of late fee under section 234E of the Income Tax Act, 1961 while processing quarterly TDS return and started issuing intimation to the assesseees. The issue has been challenged before various Courts by the assesseees by writ and challenged the validity of provision of section 234E of the Act. In some cases, some Courts have granted stay of operation of intimation issued by the Department under section 200A of the Act. Therefore, on the basis of judgement of the Hon'ble High Court, the assesseees have started challenging the intimation issued by the Assessing Officer before the Id. CIT(A). The Id. CIT(A) did not entertain the appeal filed by the assessee on both counts, including on limitation in filing the appeal as well as on merits of the issue and rejected the arguments taken by the assessee and confirmed late fee levied under section 234E of the Income Tax Act, as per mandate of the statute. In the meantime, the Hon'ble Karnataka High Court in the case of *Fatheraj Singhvi v. Union of India* [2016] 289 CTR 602 (Karnataka) had considered the issue and after analyzing the provisions of section 234E of the Act and section 200A of the Act and held that in the absence of enabling provision in section 200A of the Act, the Assessing Officer cannot levy late fee under section 234E of the Act, while processing the quarterly TDS return filed for the period of the respective assessment

years prior to 01.06.2015. A similar view has been expressed by the Hon'ble Kerala High Court in the case of Olari Little Flower Kuries (P.) Ltd. v. Union of India [2022] 134 taxmann.com 111 (Kerala) after considering the decision of Hon'ble Karnataka High Court in the case of Fatheraj Singhvi v. Union of India [2016] 289 CTR 602 (Karnataka) and held that the provisions of section 200A of the Act were mandated to enable computation of late fee payable under section 234E of the Act, at the time of processing of quarterly TDS return and the said amendment came into effect from 01.06.2015. Thus, the intimation issued by the Assessing Officer under section 200A of the Act to levy late fee for belated return for the period prior to 01.06.2015 is invalid. Subsequent to the decisions of the Hon'ble Karnataka High Court and the Hon'ble Kerala High Court, series of decisions have been rendered by various Benches of the Tribunal and held that late fee under section 234E of the Act cannot be levied for the period prior to 01.06.2015, because, there was no enabling provision to levy such late fee.

4. In the present appeals, on perusal of the facts, we find that the assessment years involved are prior to 01.06.2015. Therefore, we are of the considered view that the late fee charged by the Assessing Officer under section 234E of the Act, while processing quarterly TDS return

under section 200A of the Act, is without any authority and invalid. Hence, by respectfully following the decision of the Hon'ble Karnataka High Court in the case of Fatheraj Singhvi v. Union of India [2016] 289 CTR 602 (Karnataka), we are of the considered view that the Assessing Officer cannot levy late fee while processing of TDS return under section 200A of the Act upto the financial year 2014-15. Since, late fee charged in the present case pertaining to the financial year 2013-14, we direct the Assessing Officer to delete the late fee charged under section 234E of the Act in the intimation issued under section 200A of the Act for the processing of quarterly TDS return filed by the assessee.

5. In the result, all the appeals filed by the assessee are allowed.

Order pronounced on 24th February, 2022 at Chennai.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Chennai, Dated, 24.02.2022

Vm/-

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.