

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

Before Sh. Saktijit Dey, Judicial Member

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

(Through Video Conferencing)

Sl. No.	ITA/IT(SS)A/CO No.	Appellant	Respondent	A.Y.	Assessee by
1.	1361/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2013-14	None
2.	1362/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2013-14	None
3.	1363/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2013-14	None
4.	1364/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2013-14	None
5.	1365/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2013-14	None
6.	1366/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2013-14	None
7.	1367/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None

8.	1368/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
9.	1369/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
10.	1370/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
11.	1371/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
12.	1372/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
13.	1373/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
14.	1374/Del/2021	ICMC Projects Pvt. Ltd., WA-121, 106, Rohini Complex, New Delhi-110092 PAN-AACI7969R	ITD, CPC, Bengaluru Karnataka	2014-15	None
15.	749/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura, New Delhi-110034 PAN-AAACI3306A	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.
16.	750/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura,	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.

		New Delhi-110034 PAN-AAACI3306A			
17.	751/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura, New Delhi-110034 PAN-AAACI3306A	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.
18.	752/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura, New Delhi-110034 PAN-AAACI3306A	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.
19.	753/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura, New Delhi-110034 PAN-AAACI3306A	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.
20.	754/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura, New Delhi-110034 PAN-AAACI3306A	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.
21.	755/Del/2021	Industrial Conveyors Pvt. Ltd., C/o Pavan Maheshwari & Co., CA, DP-183, Maurya Enclave Pitampura, New Delhi-110034 PAN-AAACI3306A	ACIT(CPC-TDS), Ghaziabad	2013-14	Sh. Sumit Goel, Adv.

Revenue by : Shri Umesh Takyar, Sr. DR**Date of Hearing: 23.02.2022****Date of Pronouncement: 25.02.2022****ORDER****Per Dr. B. R. R. Kumar, Accountant Member:**

All the above mentioned cases deal with the similar issue involving varying amounts, hence are being adjudicated by a common order.

2. The ACIT/ITD(TDS-CPC) issued notice for 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 years 2013-14 & for all the quarters of F.Y. 2014-15 and in all the cases for the quarter ending prior to 01.06.2015.

3. The First Appellate Authorities have held that the fee was leviable u/s 200A for filing of returns.

4. 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;"

5. In the absence of any machinery provisions to charge the late fee u/s 200A, 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.

6. 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.

7. 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.

8. Under these circumstances, we are of the considered view that the decision rendered by Hon'ble Supreme Court in the case of Vegetable products Limited 88 ITR 192 (SC) pronouncing that, when there are conflicting decisions the view taken in favour of the assessee should be followed is relevant to

adjudication of the matter before us. Hence, the impugned order passed by the First Appellate Authorities confirming the late fee levied by the AO u/s 200A read with section 234E in all the cases wherein the defaults were prior to 01.06.2015 is not sustainable in the eyes of law.

9. As a result, the fee levied u/s 234E is hereby ordered to be deleted.

10. In the result, the appeals of the assessee are allowed

Order Pronounced in the Open Court on 25/02/2022.

Sd/-

(Saktijit Dey)
Judicial Member

Dated: 25/02/2022

*** Subodh Kumar, Sr. PS***

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