

**आयकर अपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम**

IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISA KHAPATNAM BENCH, VISA KHAPATNAM

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &  
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ I.T.A. No.197, 198 & 199/Viz/2021

(निर्धारण वर्ष / AYs: 2016-17, 2018-19 & 2019-20)

Superintendent of Jails,  
Central Prison,  
Visakhapatnam.

PAN: AAAGS 7227 N

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Appellant by

प्रत्यार्थी की ओर से / Respondent by

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of  
Pronouncement

Vs. Income Tax Officer,  
TDS Ward-1,  
Visakhapatnam.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari

Sri SPG Mudaliar, Sr. AR

27/04/2022

11/05/2022

**O R D E R**

**PER S. BALAKRISHNAN, Accountant Member :**

The captioned appeals (I.T.A. No. 197, 198 & 199/Viz/2021) are filed by the assessee against the orders of the Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi in separate orders dated 17/03/2021 for the AYs 2016-17, 2018-19 & 2019-20. Since the issues involved in all the appeals are identical, for the sake of convenience, these appeals are clubbed, heard together and

disposed off in this consolidated order. There is a delay of 157 days in filing the instant appeals before the Tribunal. In this regard, the Ld. AR submitted that as per the decision of the Hon'ble Supreme Court in SMW(A) No.3 of 2020, the period of limitation for filing the appeals under general laws and all special laws falling between 15/3/2020 and 28/02/2022 shall be excluded for calculating the delay. Considering the same, we hereby condone the delay of 157 days in filing the present appeals before the Tribunal and proceed to adjudicate the cases on merits.

2. In all the instant appeals, since the assessee has raised identical ground, the grounds of appeal raised by the assessee for the AY 2016-17 in ITA No. 197/Viz/2021 are extracted herein below for the sake of reference:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) ought to have condoned the delay in filing the appeal against the order U/s. 200A of the Act.*
3. *The Ld. CIT(A) ought to have adjudicated the appeal on merits and ought to have deleted the late filing fee of Rs. 1,15,349/- charged U/s. 234E of the Act.*
4. *The Ld. CIT(A) ought to have deleted the amount of Rs. 5,173/- charged towards short payment of tax.*
5. *The Ld. CIT(A) ought to have deleted the interest of Rs. 5,073/- charged towards interest U/s. 220(2) of the Act.*

6. *Any other ground that may be urged at the time of appeal hearing.”*

3. The brief facts of the case are that for the AY 2016-17, 2018-19 & 2019-20, the assessee has filed TDS Quarterly returns in Form No.24Q beyond due date specified under the Act. Subsequently, the Ld. AO assessed TDS quarterly returns filed by the assessee and passed intimation orders U/s. 200A of the Income Tax Act, 1961 for the AY 2016-17, 2018-19 & 2019-20 and levied late filing fee U/s. 234E of the Act on account of delayed filing of the TDS returns for the AYs under consideration. Aggrieved by the orders of the Ld. AO, the assessee filed appeals before the Ld. CIT(A) belatedly beyond the prescribed time limit specified under the Act. Before the Ld. CIT(A), the assessee has filed petitions explaining the belated filing of the TDS returns with a prayer for condonation of delay in all the appeals. Before the Ld. CIT(A) the assessee has also submitted that the delay in filing the appeals before the First Appellate Authority may be condoned to advance substantial justice. The Ld. CIT (A) dismissed the appeals of the assessee by holding that the explanation given by the assessee for late filing of the appeal before the First Appellate Authority does not constitute

“sufficient cause”. To support his view, the Ld. CIT (A) relied on various decisions which find a place in the order of the Ld. CIT(A). Aggrieved by the orders of the Ld. CIT (A), the assessee is in appeal before the Tribunal for the AYs 2016-17, 2018-19 & 2019-20 raising the grounds mentioned herein above.

4. At the outset, the Ld. Counsel for the assessee, conceded that the levy of late filing fee by the Ld. AO is in accordance with law. Ld. Counsel for the assessee further submitted that on appeal, the decision of the Ld. CIT(A) in not condoning the delay in respect of the appeals before him is unsustainable in law considering the settled principle that while condoning the delay in filing the appeals substantial justice should prevail over technical consideration. In support of his view, the Ld. Counsel for the assessee relied on the decision of the Coordinate Bench of the Tribunal at Chennai in the case of Works Manager Govt. Central Automobile workshop, Chennai vs. ITO in ITA Nos. 2432 to 2442/Chny/2019, dated 26/10/2020.

5. *Per contra*, the Ld. DR relied on the orders of the Ld. Revenue Authorities and supported the view taken by the Ld. AO and the Ld. CIT (A). Further, the Ld. DR submitted that in the

present appeals the Ld. AO had rightly invoked the provisions of section 234E of the Act and computed the late fees because the TDS quarterly returns were filed belatedly after 1/6/2015 from which date the amended provisions of section 200A come into force. Therefore, the Ld. DR prayed that since the decision taken by the Ld. Revenue Authorities is in accordance with law, their orders passed by them need no interference.

6. We have heard both the parties and perused the materials available on record. We have also gone through the orders of the Ld. Revenue Authorities as well as the order of the Coordinate Bench of the Tribunal in the case of Works Manager Govt. Central Automobile Worksshop, Chennai in ITA Nos. 2432 to 2442/Chny/2019 (supra) cited by the Ld. Counsel for the assessee. Further, on perusal of the said order of the ITAT, Chennai Bench we find that under the similar set of facts and circumstances, after careful consideration, the Tribunal condoned the delay in filing appeals before the First Appellate Authority and restored the matter to the file of the Ld. CIT(A) with a direction to decide the issues on merits.

7. Since the facts involved in the present cases before us are similar to that of the case decided by the Coordinate Bench of the

Tribunal at Chennai (supra), respectfully following the said decision of the Tribunal as well as following the principles of natural justice, principle of consistency and considering the nature of issues involved in the present appeals, in the interest of justice, we hereby condone the delay in filing the appeals before the Ld. CIT(A). Accordingly the ground No 2 is allowed.

8. However, on merits, in the present cases it is noted that the TDS quarterly returns were filed belatedly after 1/6/2015 ie., the date of insertion of section 200A by Finance Act, 2015 w.e.f 1/6/2015. Therefore, on merits, we have no hesitation to come to a conclusion that the late fees levied by the Ld.AO is in accordance with the provisions of section 234E of the Act and therefore the decision of the Ld. AO does not call for any interference. Therefore, we hereby uphold order of the Ld. AO and dismiss the ground No 3 to 5 raised by the assessee in all the instant appeals.

9. In the result, three appeals filed by the assessee are partly allowed.

Pronounced in the open Court on the 11<sup>th</sup> May, 2022.

Sd/-

(दुव्वूरु आर.एल रेड्डी)  
(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)  
(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated : 11.05.2022

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Office of the Superintendent of Jails, Central Prison, Adivivaram, Sri Krishnapuram, Visakhapatnam.
2. राजस्व/The Revenue – (i) Income Tax Officer, TDS Ward-1, Visakhapatnam.(ii) The Deputy Commissioner of Income Tax-TDS, CPC, Aayakar Bhavan, Sector-3, Vaishali Ghaziabad, Uttar Pradesh.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam