

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

Sl. No.	ITA No.	Name of Appellant	Name of Respondent	Asst. Year
1	1248/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2013-14
2	1249/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2013-14
3	1250/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2013-14
4	1251/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2013-14
5	1252/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2013-14
6	1253/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
7	1254/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14

8	1255/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
9	1256/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
10	1257/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
11	1258/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
12	1259/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
13	1260/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
14	1261/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
15	1262/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2013-14
16	1263/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2014-15

17	1264/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2014-15
18	1265/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2014-15
19	1266/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2014-15
20	1267/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2014-15
21	1268/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2014-15
22	1269/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2014-15
23	1270/PUN/2019	State Bank of India, Ramanad Tirth Nagar, At Post-Killari, Latur-413552 PAN : NSKS08405F	ACIT, CPC- TDS, Ghaziabad	2014-15
24	1358/PUN/2019	State Bank of India, Mangalmurty Complex, Hipparga Road, Lohara Budruk, Dist.- Osmanabad-413608 PAN : NSKS13826B	ACIT, CPC- TDS, Ghaziabad	2013-14

Assessee by : Shri Hari Krishan
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 29-04-2022
घोषणा की तारीख / Date of Pronouncement : 18-07-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

All these batch of 24 appeals by the assessee against the separate orders dated 24-04-2019, 25-04-2019 and 26-04-2019 passed by the Commissioner of Income Tax (Appeals)-1, Aurangabad [‘CIT(A)’] for above mentioned assessment years.

2. Since, the issues raised in all the appeals are similar basing on the same identical facts. Therefore, with the consent of both the parties, we proceed to hear all the appeals together and to pass a consolidated order for the sake of convenience.

3. First, we shall take up the assessee’s appeal in ITA No. 1248/PUN/2019.

4. The brief facts relating to the issue as emanating from the record are that the assessee is a public sector bank by name State Bank of India having branch at Lohara Budruk in Osmanabad District in the state of Maharashtra, received intimation dated 04-03-2015 u/s. 154 of the Act with a demand to pay Rs.72,649/- on account of late filing fee u/s. 234E of the Act for committing default in late filing TDS statement pertaining to (Form No. 26Q of Quarter-4) for F.Y. 2012-13. Against such order, the assessee filed an appeal before the First Appellate Authority i.e. Commissioner of Income Tax (Appeals) (hereafter in short “CIT(A)”) with a delay of 3 years and 6 months (1175 days) which was dismissed in limine

by holding that the assessee failed to explain the reasons which really prevented the assessee to file appeal in time. Having aggrieved by the said order, the assessee is before us by raising ground Nos. 1 and 2 challenging the action of CIT(A) in not condoning the delay and by ground Nos. 3, 4 and 4.1 on merits.

5. The ld. AR, Shri Hari Krishan prayed to adjudicate ground No. 1 as preliminary issue and argued that the issue may be remanded to the file of CIT(A) with a direction to condone the delay and to pass order, in accordance with law. Further, he reiterated the submissions as put forth before the CIT(A) in explaining the delay.

6. The ld. DR, Shri M.G. Jasnani, Addl. Commissioner of Income Tax vehemently opposed to submissions of ld. AR seeking to remand the issue to the file of CIT(A). He argued that the assessee could not state proper reasons for the delay before the CIT(A) and the assessee is well versed with the procedures of Income Tax. The assessee has various professionals, such as, accountants and legal professionals on its board and claiming that it has no technically qualified staff cannot be believed. Further, he submits, suitable costs may be imposed, in case, this Hon'ble Tribunal thinks fit to remand the issue to the file of CIT(A) and prayed to dismiss the appeal of the assessee.

7. Heard both the parties and perused the material available on record. We find that the assessee had deducted TDS as per rates prescribed by the Act and the same was deposited in Central Government account, but with a delay in filing the TDS statement as required under law. For such failure the respondent-revenue levied late fee u/s. 234E of the Act vide its

intimation, which was confirmed by the CIT(A). Before us, the ld. AR reiterated the same submissions as advanced before the CIT(A) in explanation to delay. We note that the assessee is a public sector undertaking and leader in banking business. We are unable to accept the contention of ld. AR that the appeal could not be file in time before the CIT(A) due to shortage of staff and facilities. As rightly and vehemently contended by the ld. DR that there is no substance in contending that the staff of assessee is neither technically qualified nor efficient, further, it is also not substantiated that the assessee had no support of advisors and tax consultants. The contention of assessee is untenable as it has dearth of advisors and tax consultants as it was having huge financial commitments, but however, taking into consideration the peculiar facts and circumstances of the case, submissions of ld. AR and ld. DR and in the interest of justice, we deem it proper to remand the matter to the file of CIT(A) subject to the payment of cost Rs.1 lac (Rs.1,00,000/-) in favour of the Prime Minister Relief Fund and the assessee shall pay said amount within 30 days from the date of receipt of this order. The CIT(A) shall satisfy himself the payment of cost to the Prime Minister Relief Fund and on such satisfaction, the CIT(A) shall condone the delay and adjudicate the issue on merits and pass the order, in accordance with law. Thus, the grounds raised by the assessee are allowed for statistical purpose.

8. In view of our decision in ground No. 1 in remanding the matter to the file of CIT(A), the issue raised in ground Nos. 2 and 3 become academic, requiring no adjudication.

9. In the result, the appeal of assessee is allowed for statistical purposes.

ITA No. 1358/PUN/2019

10. We find that in ITA No. 1358/PUN/2019 was filed with a delay of 30 days and the assessee filed an affidavit stating the reasons for delay. On perusal of record and hearing both the parties, we find that the reasons stated by the assessee are bonafide which really prevented the assessee to file the present appeal in time. Therefore, the delay of 30 days are condoned.

ITA Nos. 1249 to 1270 & 1358/PUN/2019

11. We find that the issue raised in the appeals and the facts in ITA Nos. 1249 to 1270 & 1358/PUN/2019 are identical to ITA No. 1248/PUN/2019 except the variance in amount. Since, the facts in ITA Nos. 1249 to 1270 & 1358/PUN/2019 are similar to ITA No. 1248/PUN/2019, the view taken by us while deciding the grounds of appeal of assessee in ITA No. 1248/PUN/2019 would *mutatis mutandis* apply to ITA Nos. 1249 to 1270 & 1358/PUN/2019, as well. Accordingly, all the appeals of assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 18th July, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 18th July, 2022.
रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Aurangabad
4. The CIT-TDS, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune