

**आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI**  
**श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT**  
**AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ **ITA No.506 to 510/Chny/2022**  
(निर्धारणवर्ष / Assessment Years: 2013-14, 2013-14, 2013-14, 2014-15 & 2014-15)

National Hospital 333, Saveetha Complex, Brough Road, Erode-638 011.	Vs	The Income Tax Officer TDS Ward, Tiruppur.
<b>PAN: AADFN 7919C</b>		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	None
प्रत्यर्थी की ओरसे/Respondent by	:	Mr. AR.V.Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of hearing	:	21.07.2022
घोषणा की तारीख /Date of Pronouncement	:	21.07.2022

**आदेश / ORDER**

**PER G. MANJUNATHA, AM:**

These appeals filed by the assessee are directed against separate, but identical orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 07.04.2022 / 08.04.2022 and pertain to assessment years 2013-14 & 2014-15.

2. At the outset, we find that all these appeals filed by the assessee are time barred by 2 days. Since, it is a meager delay, delay in filing of these appeals is condoned in the interest of advancement of substantial justice, after hearing the

learned DR and hence, appeals filed by the assessee are admitted for adjudication.

3. Brief facts of the case are that for the relevant Financial Year 2012-13 (26Q – Q2, Q3 & Q4,) and Financial year 2013-14 (26Q – Q1 & Q2), the assessee has filed TDS Quarterly returns in Form 24Q 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). Therefore, the CIT(A), after considering the relevant materials on record dismissed these appeals by affirming order of the Assessing Officer towards imposing late fee levied u/s.234E of the Act.

4. At the time of hearing, none appeared for the assessee, despite notice. Since, the issue involved in these appeals is squarely covered, we proceed to dispose of the appeals on merits, after hearing the learned DR, and considering 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) has 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.

5. 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.

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

Order pronounced in the open court on 21<sup>st</sup> July, 2022

Sd/-

**(महावीर सिंह)**

**(Mahavir Singh)**

**उपाध्यक्ष/ Vice-President**

**चेन्नई/Chennai,**

**दिनांक/Dated 21<sup>st</sup> July, 2022**

**DS**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.

Sd/-

**(जी. मंजुनाथ)**

**(G. Manjunatha )**

**लेखा सदस्य / Accountant Member**