

आयकर अपीलीय अधिकरण “बी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH,
PUNE

BEFORE SHRI R.S.SYAL, VICE PRESIDENT AND
SHRI S.S.VISWANETHRA RAVI, JUDICIAL MEMBER

Sl. No.	ITA No(s).	Name of the Applicant	Name of Respondent	Asst. Year
1-2	270/PUN/2022 & 271/PUN/2022	Accumake Industries, RH B2, Creative Shelters, Sector No.6, PCNTDA, Moshi, Pune 412 105 PAN : AAYFA4236E	ITO (TDS-1), Pune	2014-15 2015-16

Assessee by : Shri Charuhas D. Upasani &
Shri Vishnudas N. Bangad
Revenue by : Shri Ramnath P. Murkunde

सुनवाई की तारीख / Date of Hearing : 23.09.2022
घोषणा की तारीख / Date of Pronouncement : 23.09.2022

आदेश / ORDER

PER BENCH:

These two appeals arise from separate orders passed by the National Faceless Appeal Centre (NFAC), Delhi on 30-12-2021. The only issue raised in these appeals is the charging of fee u/s.234E for the assessment years 2014-15 and 2015-16.

2. The appeals are barred by 59 days. The assessee filed the appeals on 28-04-2022. Prima-facie, the delay period pertains to Covid-19 Pandemic and hence, covered by the judgment of Hon’ble

Supreme Court in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and *421 ITR 314* where the Hon'ble Apex Court took a *suo motu* cognizance of the situation arising out of the challenges faced by the country on account of COVID-19 Virus and resultant difficulties that could be faced by the litigants across the country and accordingly extended the time limit for filing of the appeals. We, therefore, condone the delay in filing the instant appeals and admit the same for disposal on merits.

3. Briefly stated, the facts of the case are that the assessee is a firm and filed the TDS returns for the respective quarters belatedly. Based on that, the Assessing Officer (AO) levied late fees u/s.234E of the Income-tax Act, 1961 (hereinafter also called 'the Act'). The assessee approached the Id. CIT(A) but without success. Aggrieved thereby, the assessee has approached the Tribunal.

4. We have heard both the sides and gone through the relevant material on record. The solitary issue raised in all the appeals is against the confirmation of fee u/s.234E imposed by the AO. The assessment years involved in these 2 appeals are 2014-15 and 2015-16, which show that the fee u/s.234E has been imposed for the delay in furnishing the statements for quarters prior to 01-06-2015.

5. Section 200A deals with processing of statements of tax deducted at source. Clause (c) of section 200A(1) was inserted by the Finance Act 2015 w.e.f. 01-06-2015 providing for the levy of fee u/s.234E of the Act. In that view of the matter, such fee u/s.234E can be levied only for the default committed after 01-06-2015 and not prior to that. The Hon'ble Kerala High Court in *Olari Little Flower Kuries Pvt. Ltd. Vs. Union of India and others (2022) 440 ITR 26 (Kerala)* has affirmed the non-imposition of fee for the period prior to 01-06-2015. Similar view has been taken in *Jiji Varghese VS. ITO(TDS) & Ors. (2022) 443 ITR 267 (Ker)* holding that no fee u/s 234E can be imposed for the periods of the respective A.Ys. prior to June 1, 2015. Thus, it is seen that the issue raised in these appeals is covered in favour of the assessee. Following the precedent, we overturn the impugned orders on this sole issue.

6. In the result, the appeals are allowed.

Order pronounced in the Open Court on 23rd day of September, 2022.

Sd/-

S.S.VISWANETHRA RAVI
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 23rd September, 2022

Satish

Sd/-

R.S.SYAL
VICE PRESIDENT

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

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

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1.	Draft dictated on	23-09-2022	Sr.PS
2.	Draft placed before author	23-09-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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