

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA Nos. 222/Ind/2022 to 328/Ind/2022

Madhya Pradesh Gramin Bank (Formerly known as Narmada Jhabua Gramin Bank) (Different branches as per details in Para No.1)	<u>बनाम</u> <u>/Vs.</u>	ACIT, CPC-TDS Ghaziabad
(Appellant / Assessee)		(Respondent/ Revenue)
TAN: As per details in Para No. 1		
Assessee by	Shri Hardik Chordia & Pratik Sadrani, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	10.11.2022	
Date of Pronouncement	11.11.2022	

आदेश / O R D E R

Per Bench:

1. These are a batch of 107 appeals filed by different branches of Madhya Pradesh Gramin Bank (formerly known as Narmada Jhabua Gramin Bank) [“Assesseees” in short], against the appeal-orders passed by the National Faceless Appeal Centre (NFAC), Delhi [“Ld. CIT(A)” in short], which in turn arise out of the respective orders passed u/s 154 of the Income-tax Act, 1961 [“the Act” in short] by TDS-CPC, Ghaziabad [“Ld.

AO” in short], the details of various branches and orders appealed against being as follows:

Sr. No.	ITA No	Branch Name	TAN of Branch	Financial Year	Qtr	Form Type	Amount of Late filing Levy u/s 234E	Appeal No	DATE OF CIT(A) ORDER
1	ITA 222/Ind/2022	ALI BRANCH	BPLJ01618B	2012-13	Q4	26Q	6600	CIT (A), Indore- 2/10099/2020-21	9-Jul-22
2	ITA 223/Ind/2022	ALI BRANCH	BPLJ01618B	2013-14	Q2	26Q	1180	CIT (A), Indore- 1/10080/2020-21	9-Jul-22
3	ITA 224/Ind/2022	MAHIDPUR ROAD BRANCH	BPLI00679A	2013-14	Q4	26Q	2800	CIT (A), Ujjain/10036/2020-21	9-Jul-22
4	ITA 225/Ind/2022	UMARKOT BRANCH	BPLJ01647C	2014-15	Q4	26Q	3320	CIT (A), Indore- 2/10079/2020-21	9-Jul-22
5	ITA 226/Ind/2022	BHABHRA BRANCH	BPLJ01634D	2014-15	Q2	26Q	3000	CIT (A), Gwalior/10343/2020-21	9-Jul-22
6	ITA 227/Ind/2022	BHABHRA BRANCH	BPLJ01634D	2014-15	Q3	26Q	1640	CIT (A), Jabalpur- 1/10249/2020-21	9-Jul-22
7	ITA 228/Ind/2022	CHANDPUR BRANCH	BPLJ01646B	2014-15	Q2	26Q	14498	CIT (A), Indore- 2/10095/2020-21	9-Jul-22
8	ITA 229/Ind/2022	RAJGARH NAKA JHABUA BRANCH	BPLJ01645A	2014-15	Q4	26Q	3600	CIT (A), Indore- 2/10088/2020-21	9-Jul-22
9	ITA 230/Ind/2022	DEHRI BRANCH	BPLJ01617A	2014-15	Q2	26Q	2140	CIT (A), Indore- 2/10085/2020-21	9-Jul-22
10	ITA 231/Ind/2022	LABRIYA BRANCH	BPLJ01643F	2013-14	Q2	26Q	1100	CIT (A), Indore- 2/10063/2020-21	9-Jul-22
11	ITA 232/Ind/2022	SINGHANA BRANCH	BPLJ01633C	2013-14	Q2	26Q	10400	CIT (A), Indore- 2/10064/2020-21	9-Jul-22
12	ITA 233/Ind/2022	TISGAON BRANCH	BPLJ01613D	2012-13	Q4	26Q	6600	CIT (A), Indore- 2/10104/2020-21	9-Jul-22
13	ITA 234/Ind/2022	BHESOLA BRANCH	BPLJ01619C	2012-13	Q4	26Q	8000	CIT (A), Indore- 2/10105/2020-21	9-Jul-22
14	ITA 235/Ind/2022	BHESOLA BRANCH	BPLJ01619C	2014-15	Q2	26Q	2800	CIT (A), Indore- 2/10069/2020-21	9-Jul-22
15	ITA 236/Ind/2022	AJANDA BRANCH	BPLJ01615F	2012-13	Q2	26Q	4171	CIT (A), Indore- 2/10100/2020-21	9-Jul-22
16	ITA 237/Ind/2022	SUSARI BRANCH	BPLJ01611B	2012-13	Q4	26Q	23000	CIT (A), Indore- 2/10106/2020-21	9-Jul-22
17	ITA 238/Ind/2022	AMZERA BRANCH	BPLJ01606D	2014-15	Q2	26Q	2400	CIT (A), Indore- 2/10113/2020-21	9-Jul-22
18	ITA 239/Ind/2022	PADIYAL BRANCH	BPLJ01621E	2013-14	Q2	26Q	1090	CIT (A), Indore- 2/10065/2020-21	9-Jul-22

19	ITA 240/Ind/2022	PIPLIYA BRANCH	BPLJ01609G	2012-13	Q3	26Q	6897	CIT (A), Indore- 2/10096/2020-21	9-Jul-22
20	ITA 241/Ind/2022	DHOLANA BRANCH	BPLJ01600E	2012-13	Q2	26Q	7200	CIT (A), Indore- 2/10108/2020-21	9-Jul-22
21	ITA 242/Ind/2022	BAKANER BRANCH	BPLJ01636F	2013-14	Q2	26Q	6000	CIT (A), Indore- 2/10111/2020-21	9-Jul-22
22	ITA 243/Ind/2022	BAKANER BRANCH	BPLJ01636F	2014-15	Q4	26Q	2430	CIT (A), Indore- 2/10076/2020-21	9-Jul-22
23	ITA 244/Ind/2022	NISARPUR BRANCH	BPLJ01605C	2012-13	Q3	26Q	1819	CIT (A), Indore- 2/10098/2020-21	9-Jul-22
24	ITA 245/Ind/2022	GHATABILLOD BRANCH	BPLJ01616G	2013-14	Q3	26Q	2390	CIT (A), Indore- 2/10109/2020-21	9-Jul-22
25	ITA 246/Ind/2022	TRIMURTI NAGAR DHAR BRANCH	BPLJ01622F	2012-13	Q4	26Q	8000	CIT (A), Indore- 2/10092/2020-21	9-Jul-22
26	ITA 247/Ind/2022	PITHAMPUR BRANCH	BPLJ01610A	2012-13	Q4	26Q	7600	CIT (A), Indore- 2/10093/2020-21	9-Jul-22
27	ITA 248/Ind/2022	JHABUA BRANCH	BPLJ01572E	2012-13	Q4	26Q	26400	CIT (A), Ujjain/10040/2020-21	9-Jul-22
28	ITA 249/Ind/2022	JIBAT BRANCH	BPLJ01644G	2013-14	Q3	26Q	3260	CIT (A), Ujjain/10042/2020-21	9-Jul-22
29	ITA 250/Ind/2022	JIBAT BRANCH	BPLJ01644G	2014-15	Q2	26Q	6800	CIT (A), Indore- 2/10078/2020-21	9-Jul-22
30	ITA 251/Ind/2022	RAMBHAPUR BRANCH	BPLJ01637G	2012-13	Q4	26Q	22800	CIT (A), Jabalpur- 1/10247/2020-21	9-Jul-22
31	ITA 252/Ind/2022	AMBUA BRANCH	BPLJ01620D	2014-15	Q2	26Q	3000	CIT (A), Jabalpur- 1/10248/2020-21	9-Jul-22
32	ITA 253/Ind/2022	RANAPU BRANCH	BPLJ01625B	2014-15	Q2	26Q	3000	CIT (A), Ujjain/10044/2020-21	9-Jul-22
33	ITA 254/Ind/2022	RANAPUR BRANCH	BPLJ01625B	2014-15	Q4	26Q	3600	CIT (A), Ujjain/10038/2020-21	9-Jul-22
34	ITA 255/Ind/2022	KAKANWANI BRANCH	BPLJ01602G	2012-13	Q4	26Q	12600	CIT (A), Jabalpur- 1/10253/2020-21	9-Jul-22
35	ITA 256/Ind/2022	BHABHRA BRANCH	BPLJ01634D	2012-13	Q4	26Q	34418	CIT (A), Ujjain/10049/2020-21	9-Jul-22
36	ITA 257/Ind/2022	DHAMNOD BRANCH	BPLJ01666A	2014-15	Q4	26Q	24000	CIT (A), Indore- 2/10080/2020-21	9-Jul-22
37	ITA 258/Ind/2022	KALYANPURA BRANCH	BPLJ01657F	2014-15	Q2	26Q	2670	CIT (A), Indore- 2/10077/2020-21	9-Jul-22
38	ITA 259/Ind/2022	RAIPURIYA BRANCH	BPLJ01656E	2012-13	Q4	26Q	21600	CIT (A), Jabalpur- 1/10246/2020-21	9-Jul-22
39	ITA 260/Ind/2022	DHULET BRANCH	BPLJ01658G	2012-13	Q4	26Q	12600	CIT (A), Indore- 2/10060/2020-21	9-Jul-22
40	ITA 261/Ind/2022	JEERABAD BRANCH	BPLJ02303A	2014-15	Q2	26Q	3000	CIT (A), Indore- 2/10070/2020-21	9-Jul-22
41	ITA 262/Ind/2022	SEMALDA BRANCH	BPLJ01668C	2012-13	Q4	26Q	6260	CIT (A), Indore- 2/10057/2020-21	9-Jul-22
42	ITA 263/Ind/2022	AHOD BRANCH	BPLJ02324A	2014-15	Q2	26Q	1000	CIT (A), Indore- 2/10075/2020-21	9-Jul-22
43	ITA 264/Ind/2022	RAJOD BRANCH	BPLJ01652A	2014-15	Q3	26Q	1000	CIT (A), Indore- 2/10074/2020-21	9-Jul-22
44	ITA 265/Ind/2022	DIGTHAN BRANCH	BPLJ02616F	2012-13	Q4	26Q	3254	CIT (A), Indore- 2/10061/2020-	9-Jul-22

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45	ITA 266/Ind/2022	TIRLA BRANCH	BPLN03116B	2013-14	Q1	26Q	2531	CIT (A), Indore- 2/10066/2020-21	9-Jul-22
46	ITA 267/Ind/2022	PADALYAMATA BRANCH	BPLN02178B	2012-13	Q3	26Q	2280	CIT (A), Ujjain/10034/2020-21	9-Jul-22
47	ITA 268/Ind/2022	RAJGARH BRANCH	BPLJ01649E	2014-15	Q4	26Q	34600	CIT (A), Indore- 2/10086/2020-21	9-Jul-22
48	ITA 269/Ind/2022	MEGHNAGAR BRANCH	BPLJ01667B	2012-13	Q4	26Q	10200	CIT (A), Ujjain/10035/2020-21	9-Jul-22
49	ITA 270/Ind/2022	SARANGI BRANCH	BPLJ02612B	2012-13	Q4	26Q	5146	CIT (A), Indore- 2/10082/2020-21	9-Jul-22
50	ITA 271/Ind/2022	TEHKUKSHIDIST BRANCH	BPLJ01618B	2012-13	Q2	26Q	7200	CIT (A), Indore- 1/10085/2020-21	2-Aug-22
51	ITA 272/Ind/2022	ALI BRANCH	BPLJ01618B	2012-13	Q3	26Q	1404	CIT (A), Indore- 1/10087/2020-21	2-Aug-22
52	ITA 273/Ind/2022	JHABUA BRANCH	BPLJ01645A	2012-13	Q3	26Q	14942	CIT (A), Jabalpur- 1/10314/2020-21	2-Aug-22
53	ITA 274/Ind/2022	JHABUA BRANCH	BPLJ01645A	2012-13	Q4	26Q	45200	CIT (A), Indore- 1/10088/2020-21	1-Aug-22
54	ITA 275/Ind/2022	JHABUA BRANCH	BPLJ01645A	2013-14	Q1	26Q	18197	CIT (A), Ujjain/10055/2020-21	2-Aug-22
55	ITA 276/Ind/2022	JHABUA BRANCH	BPLJ01645A	2013-14	Q4	26Q	4200	CIT (A), Ujjain/10052/2020-21	2-Aug-22
56	ITA 277/Ind/2022	DEHRI BRANCH	BPLJ01617A	2012-13	Q4	26Q	41800	CIT (A), Indore- 2/10114/2020-21	2-Aug-22
57	ITA 278/Ind/2022	DEHRI BRANCH	BPLJ01617A	2013-14	Q3	26Q	2200	CIT (A), Indore- 2/10134/2020-21	2-Aug-22
58	ITA 279/Ind/2022	LABRIYA BRANCH	BPLJ01643F	2012-13	Q4	26Q	6100	CIT (A), Indore- 2/10103/2020-21	1-Aug-22
59	ITA 280/Ind/2022	PADIYAL BRANCH	BPLJ01621E	2012-13	Q3	26Q	2100	CIT (A), Indore- 2/10125/2020-21	2-Aug-22
60	ITA 281/Ind/2022	PADIYAL BRANCH	BPLJ01621E	2012-13	Q4	26Q	10200	CIT (A), Indore- 2/10139/2020-21	2-Aug-22
61	ITA 282/Ind/2022	PIPLIYA BRANCH	BPLJ01609G	2012-13	Q2	26Q	7800	CIT (A), Indore- 2/10123/2020-21	2-Aug-22
62	ITA 283/Ind/2022	AMBADA BRANCH	BPLJ01599D	2012-13	Q4	26Q	21000	NFAC/2012-13/10011359	2-Aug-22
63	ITA 284/Ind/2022	BAKANER BRANCH	BPLJ01636F	2012-13	Q3	26Q	5378	CIT (A), Indore- 2/10118/2020-21	2-Aug-22
64	ITA 285/Ind/2022	BAKANER BRANCH	BPLJ01636F	2012-13	Q4	26Q	22600	CIT (A), Indore- 2/10124/2020-21	2-Aug-22
65	ITA 286/Ind/2022	BADNAWAR BRANCH	BPLJ01603A	2012-13	Q2	26Q	7200	CIT (A), Indore- 2/10102/2020-21	2-Aug-22
66	ITA 287/Ind/2022	NISARPUR BRANCH	BPLJ01605C	2012-13	Q2	26Q	7800	CIT (A), Indore- 2/10127/2020-21	2-Aug-22
67	ITA 288/Ind/2022	GHATABILLOD BRANCH	BPLJ01616G	2012-13	Q3	26Q	7951	CIT (A), Indore- 2/10120/2020-21	2-Aug-22
68	ITA 289/Ind/2022	GHATABILLOD BRANCH	BPLJ01616G	2013-14	Q2	26Q	10400	CIT (A), Indore- 2/10135/2020-21	2-Aug-22
69	ITA 290/Ind/2022	TRIMURTI NAGAR BRANCH	BPLJ01622F	2012-13	Q2	26Q	22041	CIT (A), Indore- 2/10115/2020-21	1-Aug-22

70	ITA 291/Ind/2022	TRIMURTI NAGAR BRANCH	BPLJ01622F	2012-13	Q3	26Q	4417	CIT (A), Indore- 2/10128/2020-21	1-Aug-22
71	ITA 292/Ind/2022	TRIMURTI NAGAR BRANCH	BPLJ01622F	2013-14	Q3	26Q	3200	NFAC/2013-14/10011382	2-Aug-22
72	ITA 293/Ind/2022	PITHAMPUR BRANCH	BPLJ01610A	2012-13	Q2	26Q	7800	CIT (A), Indore- 2/10117/2020-21	2-Aug-22
73	ITA 294/Ind/2022	PITHAMPUR BRANCH	BPLJ01610A	2012-13	Q3	26Q	4299	CIT (A), Indore- 2/10121/2020-21	2-Aug-22
74	ITA 295/Ind/2022	PITHAMPUR BRANCH	BPLJ01610A	2013-14	Q2	26Q	2420	CIT (A), Indore- 2/10140/2020-21	2-Aug-22
75	ITA 296/Ind/2022	JHABUA BRANCH	BPLJ01572E	2012-13	Q2	26Q	68800	CIT (A), Ujjain/10047/2020-21	1-Aug-22
76	ITA 297/Ind/2022	JIBAT BRANCH	BPLJ01644G	2012-13	Q2	26Q	7200	NFAC/2012-13/10011358	2-Aug-22
77	ITA 298/Ind/2022	JIBAT BRANCH	BPLJ01644G	2012-13	Q3	26Q	9269	CIT (A), Indore- 2/10130/2020-21	2-Aug-22
78	ITA 299/Ind/2022	JIBAT BRANCH	BPLJ01644G	2012-13	Q4	26Q	6600	CIT (A), Ujjain/10046/2020-21	2-Aug-22
79	ITA 300/Ind/2022	JIBAT BRANCH	BPLJ01644G	2013-14	Q2	26Q	7800	CIT (A), Ujjain/10050/2020-21	2-Aug-22
80	ITA 301/Ind/2022	UMARKOT BRANCH	BPLJ01647C	2013-14	Q4	26Q	1010	CIT (A), Ujjain/10043/2020-21	1-Aug-22
81	ITA 302/Ind/2022	RANAPUR BRANCH	BPLJ01625B	2012-13	Q4	26Q	8000	CIT (A), Ujjain/10048/2020-21	2-Aug-22
82	ITA 303/Ind/2022	RANAPUR BRANCH	BPLJ01625B	2013-14	Q3	26Q	6600	CIT (A), Ujjain/10051/2020-21	2-Aug-22
83	ITA 304/Ind/2022	BHABHRA BRANCH	BPLJ01634D	2013-14	Q4	26Q	43650	CIT (A), Ujjain/10054/2020-21	2-Aug-22
84	ITA 305/Ind/2022	BHABHRA BRANCH	BPLJ01634D	2014-15	Q1	26Q	7080	CIT (A), Ujjain/10056/2020-21	2-Aug-22
85	ITA 306/Ind/2022	CHANDPUR BRANCH	BPLJ01646B	2014-15	Q4	26Q	3600	CIT (A), Ujjain/10058/2020-21	2-Aug-22
86	ITA 307/Ind/2022	PETLAWAD BRANCH	BPLJ01639B	2012-13	Q3	26Q	1664	CIT (A), Ujjain/10041/2020-21	2-Aug-22
87	ITA 308/Ind/2022	PETLAWAD BRANCH	BPLJ01639B	2014-15	Q3	26Q	3200	NFAC/2014-15/10011383	2-Aug-22
88	ITA 309/Ind/2022	JHABUA BRANCH	BPLJ01645A	2012-13	Q2	26Q	87400	CIT (A), Ujjain/10057/2020-21	2-Aug-22
89	ITA 310/Ind/2022	ALIRAJPUR BRANCH	BPLJ01653B	2012-13	Q4	26Q	6600	CIT (A), Indore- 2/10094/2020-21	1-Aug-22
90	ITA 311/Ind/2022	DHAR BRANCH	BPLN03152C	2013-14	Q3	26Q	1310	NFAC/2013-14/10011357	2-Aug-22
91	ITA 312/Ind/2022	SEMALDA BRANCH	BPLJ01668C	2012-13	Q2	26Q	2305	CIT (A), Indore- 2/10107/2020-21	1-Aug-22
92	ITA 313/Ind/2022	AHOD BRANCH	BPLJ02324A	2012-13	Q4	26Q	6600	CIT (A), Indore- 2/10101/2020-21	2-Aug-22
93	ITA 314/Ind/2022	DHAMNOD BRANCH	BPLJ01666A	2012-13	Q2	26Q	7200	CIT (A), Indore- 2/10119/2020-21	1-Aug-22
94	ITA 315/Ind/2022	DHAMNOD BRANCH	BPLJ01666A	2012-13	Q4	26Q	5800	CIT (A), Indore- 2/10122/2020-21	1-Aug-22
95	ITA 316/Ind/2022	DHAMNOD BRANCH	BPLJ01666A	2013-14	Q4	26Q	8000	CIT (A), Indore- 2/10110/2020-21	1-Aug-22
96	ITA 317/Ind/2022	RAJOD BRANCH	BPLJ01652A	2012-13	Q2	26Q	2093	CIT (A), Indore- 2/10126/2020-21	1-Aug-22
97	ITA 318/Ind/2022	RAJOD BRANCH	BPLJ01652A	2012-13	Q4	26Q	10200	CIT (A), Indore- 2/10097/2020-21	1-Aug-22
98	ITA 319/Ind/2022	KALYANPURA BRANCH	BPLJ01657F	2012-13	Q4	26Q	10200	CIT (A), Ujjain/10039/2020-21	1-Aug-22
99	ITA 320/Ind/2022	RAJGARH BRANCH	BPLJ01649E	2012-13	Q2	26Q	7800	CIT (A), Indore- 2/10132/2020-21	1-Aug-22

100	ITA 321/Ind/2022	RAJGARH BRANCH	BPLJ01649E	2012-13	Q4	26Q	10200	CIT (A), Indore- 2/10131/2020-21	1-Aug-22
101	ITA 322/Ind/2022	RAJGARH BRANCH	BPLJ01649E	2013-14	Q3	26Q	6600	CIT (A), Indore- 2/10137/2020-21	1-Aug-22
102	ITA 323/Ind/2022	RAJGARH BRANCH	BPLJ01649E	2013-14	Q4	26Q	6800	CIT (A), Indore- 2/10136/2020-21	1-Aug-22
103	ITA 324/Ind/2022	RAJGARH BRANCH	BPLJ01649E	2014-15	Q2	26Q	77000	CIT (A), Indore- 2/10112/2020-21	1-Aug-22
104	ITA 325/Ind/2022	BOLASA BRANCH	BPLJ01681B	2012-13	Q4	26Q	14400	NFAC/2012-13/10011364	2-Aug-22
105	ITA 326/Ind/2022	KHAWASA BRANCH	BPLJ02637F	2014-15	Q2	26Q	3000	CIT (A), Indore- 2/10141/2020-21	2-Aug-22
106	ITA 327/Ind/2022	SEHORE MANDI BRANCH	BPLN02804E	2012-13	Q2	26Q	3260	NFAC/2012-13/10011356	2-Aug-22
107	ITA 328/Ind/2022	SEHORE MANDI BRANCH	BPLN02804E	2013-14	Q2	26Q	3567	NFAC/2013-14/10011355	2-Aug-22

Heard the learned Representatives of both sides and case records perused.

2. At the start of hearing, Ld. AR submitted that the issues involved, related facts and the applicable provisions of law are same in all these appeals. Therefore, all these appeals were heard together and we are disposing by this consolidated order.

3. Precisely stated the facts leading to these appeals before us are such that that the assesseees have filed statutory returns of TDS in Form No. 26Q of various quarters of the financial years as mentioned in the details given in the Table above, which were processed by Ld. AO who observed that the returns were filed belatedly beyond the time-limit prescribed in section 200(3) of the act. Accordingly, the Ld. AO charged late-fee u/s 234E of the act, of varying amounts as per period of delay committed by assesseees, in the intimations issued u/s 200A of the Income-tax Act, 1961. Against such intimations u/s 200A, the assesseees submitted applications for rectification u/s 154 of the Act, but, however the Ld. AO rejected those rectification-applications. Being aggrieved by orders of rectification, the assesseees filed appeals to Ld. CIT(A) but could not succeed. Now the assesseees have come in these appeals before us assailing the orders of Ld. CIT(A).

4. The assesseees have raised following grounds:

GROUND NO 1: THE APPELLANT BANK PLEADS THAT NON-CONSIDERATION OF A DECISION OF JURISDICTIONAL COURT (IN THIS CASE HON'BLE INDORE ITAT) COULD BE SAID TO BE A "Mistake APPARENT FROM THE RECORD":

The Appellant Bank pleads that the Id. CIT(A) has erred by wrong appreciating the facts and not considered that Late Filing Levy is "Mistake apparent from Record". The appellant Bank pleads that our appeal is always in respect of Late filing Levy of TDS under sec 234E which is getting shown in Intimation Order under sec 154 generated after filing TDS Corrections.

We therefore Request Hon'ble ITAT to consider Late Filing Levy as "Mistake apparent from Record" and consider the appeal filed against intimation order generated under sec 154 after filing TDS Corrections as valid and set aside the Order of Ld. CIT(A) and set aside the demand of Late filing fees under sec 234E for TDS statement filed before 01.06.2015.

GROUND NO 2: Insertion of clause (c) to section 200a(1) of the it act. Specifically w.e.f.1.06.2015 The Id. CIT(A) has erred and not considered that TDS-CPC has been empowered to make claim and generate intimation u/s 200A for late fees (u/s 234E) for all the statements filed on or after 01 Jun-2015 and not before. Hence, The Appellant pleads that intimations against all statement filed before 01-Jun-2015 should be quashed.

GROUND NO.3: Prospective effect w.e.f. 01-Jun-2015 of Section 200A(1 Hc) read with Section 234E The Id. CIT (A) has erred and not considered that since the appeal under consideration is in respect to Demand under Section 200A for computation and intimation for the payment of fee under Section 234E for TDS returns filed pertaining to period prior to 01.06.2015, the impunged notices for late filing levy shall be quashed considering the amendment in section 200A is effective only from 01-06-2015.

GROUND NO 4: Hon'ble High Court Case Law pronouncing Judgement in Assessee's favour in similar cases (along with Hon'ble Supreme Court Judgement in case of cleavage of opinion between different High Courts)

1.Hon'ble Karnataka high court and Hon'ble Kerala high court decision supports the above grounds and both high courts have held that the amendment in section 200A is effective only from 01-06-2015 and therefore late filing fee u/s 234E cannot be levied for the

period prior to 1-6-2015. Also, Hon'ble Gujrat High Court have decided the matter in favour of Department.

1.The Id. CIT (A) has erred and not considered the landmark judgement of Hon'ble Supreme Court of CIT vs. Vegetable Products ltd. 88 ITR 192(SC) & CIT Vs. Vatika Township P. Ltd. (2014) 367 ITR 466 (SC) wherein it has been decided by the Apex Court that if there is a cleavage of opinion between different Courts on an issue, in absence of jurisdictional court judgement the one in favour of the assessee needs to be followed. The Appellant therefore pleads that it is pertinent to go with Apex Court landmark judgements and an order in favour of assessee be passed.

GROUND NO 5: ITAT Case Law Pronouncing Judgement in Assesses' favour in similar cases:

The Id. CIT (A) erred and not considered that There are numerous ITAT case laws, wherein it is clearly decided by the bench that intimation for fees for late filing of TDS statement filed u/s 234E before 01-Jul- 2015 is illegal, incorrect and invalid. "

GROUND No. 1:

5. In this Ground, the assessees have claimed that the Ld. CIT(A) has erred in dismissing first-appeals by wrongly observing that there was no "apparent mistake" in the intimations u/s 200A and the rejection of rectification-applications by Ld. AO was in order.

6. Facts *qua* this Ground are such that while passing intimations u/s 200A of the Act, the Ld. AO levied late fee u/s 234E. Although the assessee did not file direct appeals against the intimations u/s 200A, applications seeking rectification u/s 154 of the Act were filed to Ld. AO for redressal of grievance arising due to illegal levy of late-fee. However, the Ld. AO rejected those applications filed by assessees. Being aggrieved by rejection, the assessees filed appeals to Ld. CIT(A) and technically such appeal happened to be against the order of rectification u/s 154 and not against the original intimations u/s 200A of the act. The Ld. CIT(A) dismissed the appeals of assessees by concluding thus in Para No. 6.7 of his order:

“6.7 Based on the detailed discussion above, I am of the view that the levy of late filing fee u/s 234E is NOT a mistake apparent from record. Therefore the rectification order u/s 154 rightly rejected the appellant’s contention of deletion of Levy of penalty u/s 234E, since a rectification order u/s 154 is limited to deal with issues which are mistake apparent from record. Therefore the rejection of the rectification application by the CPC-TDS was in order. I am further of the view that the grounds raised in the present appeals are actually relating to the MERITS of levying of penalty u/s 234E. Therefore such grounds of grounds of appeal do not emanate from the order u/s 154, since Penalty u/s 234E was levied vide order u/s 200A, and not vide the order u/s 154. The arguments of the appellant are therefore rejected. The appellant perhaps wants the undersigned to characterize this appeal to be against the original intimation u/s 200A, and not against the rectification order u/s 154. It is however, clarified that I have restricted myself to the issue of mistake apparent from record and am not going into the merits of the levy of late fee u/s 234E. In view of the detailed discussion above, the grounds raised in the present appeal are dismissed.

7. Before us, the Ld. AR appearing on behalf of assessee submitted that the delays in filing quarterly-returns of TDS in Form No. 26Q was for the period prior to 01.06.2015 for which there was no provision in section 200A for levy of late-fee thereby rendering the late-fee charged in intimations issued u/s 200A as illegal and such a proposition is upheld by various courts including jurisdictional Bench of ITAT, Indore itself. Ld. AR submitted that the levy of late-fee illegally upon the assessee, is certainly a “mistake apparent on record” and therefore the assessee were justified in filing rectification-applications u/s 154 to the Ld. AO. Therefore, according to Ld. AR, the Ld. CIT(A) was neither justified in concluding that there was no apparent mistake nor justified in dismissing the appeals of assessee.

8. Per contra, Ld. DR vehemently supported the orders of Ld. CIT(A) and argued that the assessee have not filed first-appeals against the intimations u/s 200A, which necessarily should have been filed. According to Ld. DR,

the assessee filed rectification-applications u/s 154 against the intimations u/s 200A and thereafter carried the matter to Ld. CIT(A) after getting rejection of rectification-applications. The Ld. DR submitted that this route adopted by the assessee was not permissible in the issue involved and therefore the Ld. CIT(A) was justified in dismissing appeals of assessee on this very footing. With these submissions, the Ld. DR prayed to uphold the orders of Ld. CIT(A).

9. We have considered the rival submissions of both sides and also perused the record. We would observe, in subsequent discussions, that the late fee u/s 234E could not have been levied in the intimations u/s 200A for delay in filing quarterly returns of TDS for the period prior to 01.06.2015. Therefore, by levying late-fee which was not leviable, the Ld. AO has certainly committed a mistake apparent on record. Additionally, we also observe that under the scheme of Income-tax Act, 1961, the assessee have two remedies against the intimation u/s 200A, viz. (i) file rectification-application u/s 154, or (ii) file appeal u/s 246A. We observe that the remedy to file rectification u/s 154 is not only one of the available remedies but also a simpler remedy and practically resorted to by many of the assessee, particularly in the matter of the late-fee u/s 234E wrongly levied by revenue-authorities. We find that it is not a case of revenue that the rectification-application u/s 154 against the intimation u/s 200A is absolutely barred in the scheme of the Act. We also observe that when the late-fee is not leviable in the law and on facts, by levying the same the assessee have been fastened with the liability beyond and against the scheme of the Act, which should not happen. In this regard, we gainfully refer a recent decision of Hon'ble ITAT, Jodhpur Bench in the case of **Akbar Mohammad, Nagaur Vs. ACIT, CPC, Bangalore ITA No. 108 & 109/Jodh/2021 order dated 31.01.2012** in which the Hon'ble Co-ordinate Bench has held thus:

“6.1 Of course, it is a case in point that the assessee did not file any appeal against the intimations passed u/s 143(1) of the Act and the Ld. Sr. DR is right to the extent that the assessee cannot be given relief for that reason. However, it is also a settled law that the assessee cannot be taxed on an amount on which tax is not legally imposable. Although, the assessee might have chosen a wrong channel for redressal of his grievance, all the same, it is incumbent upon the Tax authorities to burden the assessee only with correct amount of tax and not to unjustly benefit at the cost of tax payer. Therefore, in the interest of substantial justice, we deem it expedient to restore the issue to the file of the Assessing officer with a direction to pass appropriate orders deleting the addition / disallowance after duly considering the settled judicial position in this regard, which have been decided in the three cases as enumerated above in Para 5.”

10. Thus having observed that there was an apparent mistake in the intimations sent by Ld. AO u/s 154 and respectfully following the ratio of the above decision of Hon'ble ITAT, Jodhpur Bench, we are inclined to accept that the Ld. CIT(A) is not justified in dismissing the appeals of assessees. Therefore, Ground No. 1 is allowed.

GROUND No. 2 to 5:

11. In these Grounds, the issue relates to the validity of charging late-fee u/s 234E in the intimations issued u/s 200A for delay in filing quarterly-returns of TDS relatable to the period prior to 01.06.2015.

12. Ld. AR submitted that in the present appeals, the late-fee u/s 234E has been levied for the period before 01.06.2015 when there was no power in section 200A to levy such late-fee, therefore the late-fee charged by Ld. AO is without authority of law and deserves to be quashed. Ld. AR submitted that the section 200A(1) was amended w.e.f. 01.06.2015 by inserting clause (c) therein and it is only thereafter the authorities were enabled to charge late-fee in the intimations u/s 200A. Therefore, it is very much clear that the authorities did not have any power to charge late-fee in respect of returns related to the period prior to 01.06.2015. In support of this proposition, Ld. AR relied upon certain decisions of different Courts / Benches of ITAT including the decisions of ITAT, Indore Bench itself in **ITA Nos.**

510/Ind/2019 in case of M/s. Keshav Industries Pvt. Ltd. & ITA Nos. 500 to 508/Ind/2019 Mr. Rajendra Prasad Tiwari, order dated 14.07.2020. The relevant paras of decision are reproduced below:

“10. We also observe that the Co-ordinate Bench Agra in the case of Sudershan Goyal Vs DCIT (TDS) ITA No.442/Agra/2017 order dated 09.04.2018 considering the similar issue deciding in favour of the assessee observed as follows:-

“The issue involved in this appeal is as to whether late filing fee u/s 234E of the IT Act has rightly been charged in the intimation dated 10.11.2013 issued u/s 200A of the Act while processing the TDS returns/statement, the enabling clause (c) having been inserted in the section w.e.f. 01.06.2015. Before 01.06.2015, there was no enabling provision in the Act u/s 200A for raising demand in respect of levy of fee u/s 234E. As such, as per the assessee, in respect of TDS statement filed for a period prior to 01.06.2015, no late fee could be levied in the intimation issued u/s 200A of the Act.

3. Heard. The ld. CIT(A), while deciding the matter against the assessee, has placed reliance on 'Rajesh Kaurani vs. UOI', 83 Taxmann.com 137 (Guj), wherein, it has been held that section 200A of the Act is a machinery provision providing the mechanism for processing a statement of deduction of tax at source and for making adjustments. The ld. CIT(A) has held that this decision was I.T.A No. 442/Agra/2017 & S.A. No. 01/Agra/2018 delivered after considering numerous ITAT/High Court decisions and so, this decision in 'Rajesh Kaurani' (supra) holds the field.

4. We do not find the view taken by the ld. CIT(A) to be correct in law. As against 'Rajesh Kaurani' (supra), 'Shri Fatehraj Singhvi and Others vs.UOI', 73 Taxmann.com 252 (Ker), as also admitted by the ld. CIT(A) himself, decides the issue in favour of the assessee. The only objection of the ld. CIT(A) is that this decision and others to the same effect have been taken into consideration by the Hon'ble Gujarat High Court while passing 'Rajesh Kaurani' (supra). However, while observing so, the ld. CIT(A) has failed to take into consideration the settled law that where there is a cleavage of opinion between different High Courts on an issue, the one in favour of the assessee needs to be followed. It has so been held by the Hon'ble Supreme Court in 'CIT vs. Vegetable Products Ltd.', 88 ITR 192 (SC). It is also not a case where the decision against the assessee has been rendered by the Jurisdictional High Court qua the assessee.

5. In 'Shri Fatehraj Singhvi and Others' (supra) it has been held, inter alia, as follows:

"22. It is hardly required to be stated that, as per the well established principles of interpretation of statute, I.T.A No. 442/Agra/2017 & S.A. No. 01/Agra/2018 unless it is expressly provided or impliedly demonstrated, any provision of statute is to be read as having prospective effect and not retrospective effect. Under the circumstances, we find that substitution made by clause (c) to (f) of sub-section (1) of Section 200A can be read as having prospective effect and not having retroactive character or effect. Resultantly, the demand under Section 200A for computation and intimation for the payment of fee under Section 234E could not be made in purported exercise of power under Section 200A by the respondent for the period of the respective assessment year prior to 1.6.2015. However, we make it clear that, if any deductor has already paid the fee after intimation received under Section 200A, the aforesaid view will not permit the deductor to reopen the said question unless he has made payment under protest."

6. In view of the above, respectfully following 'Shri Fatehraj Singhvi and Others' (supra), 'Sibia Healthcare Pvt. Ltd. vs. DCIT (TDS)', order dated 09.06.2015 passed in ITA No.90/ASR/2015, for A.Y.2013-14, by the Amritsar Bench of the Tribunal, and 'Shri Kaur Chand Jain vs. DCIT, CPC (TDS) Ghaziabad', order dated 15.09.2016, in ITA No.378/ASR/2015, for A.Y. 2012-13, I.T.A No. 442/Agra/2017 & S.A. No. 01/Agra/2018 the grievance of the assessee is accepted as justified. The order under appeal is reversed. The levy of the fee is cancelled."

11. We, therefore respectfully following above decisions are of the opinion that in the given set of facts of the instant appeals wherein fee u/s 234E of the Act was levied in the statements processed u/s 200A of the Act before 01.06.2015 i.e. before the amendment brought into effect from 01.06.2015 in section 200A of the Act thereby enabling the revenue authorities to raise demand in respect of levy of fees u/s 234E of the Act, Ld. CIT(A) erred in confirming the levy of late fees u/s 234E of the Act by the assessing officer. Accordingly findings of Ld. CIT(A) in all these 10 appeals are reversed as we have recently taken a considered view against the revenue on earlier orders of Ld. CIT(A) wherein the identical orders by respective CIT(A) were passed and accordingly the revenue is directed to delete the levy of fees u/s 234E of the Act in all these 10 cases. Thus, common issue raised in these bunch of appeals is decided in favour of the assessee(s).

12. In the result, all 10 appeals at the instance of assessee(s) are allowed."

This decision was again followed recently by the **Co-ordinate Bench of ITAT, Indore in M/s Divisional Forest Officer, Indore Vs. DCIT, CPC, TDS, Gaziabad, ITA No. 42 to 46/Ind/2020 order dated 29.09.2022.**

13. We observe that even Ld. CIT(A) has also accepted above proposition in Para No. 6.1 of his order by stating ***“I have carefully perused all the replies of the appellant and so far as the merits of levy of late filing fees are concerned, the matter is squarely covered in favour of the appellant”***. During hearing, Ld. DR too accepted this proposition. Thus, as far as this aspect is concerned, there is no objection from the side of revenue. Hence, we have no hesitation in concluding that the late-fee levied u/s 234E levied by Ld. AO in the intimations made u/s 200A is illegal and deserves to be deleted. We, therefore, direct the Ld. AO to rectify intimations and delete the late-fee charged therein. Thus, the assessee succeeds in Ground No. 2 to 5.

14. In the result, these appeals of assessees are allowed.

Order pronounced in open court on 11/11/2022.

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Sd/-

(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 11.11.2022

Patel/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*

1.	Date of taking dictation	10.11.22
2.	Date of typing & draft order placed before the Dictating Member	10.11.22
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	