

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

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

आयकर अपील सं. / ITA Nos.457 & 458/PUN/2022
निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15

Swayam Clinic Pvt. Ltd.,
742, Dinshaw Apartment,
Opp. Navin Hind School,
Bhavani Peth, Pune – 411042

PAN : AAPCS0205F

.....अपीलार्थी / Appellant

बनाम / V/s.

ACIT, Circle – 5,
Pune

.....प्रत्यर्थी / Respondent

Assessee by : N O N E
Revenue by : Shri Suhas Kulkarni

सुनवाई की तारीख / Date of Hearing : 20-12-2022
घोषणा की तारीख / Date of Pronouncement : 21-12-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

Both the appeals by the assessee against the common order dated 15-03-2022 passed by the National Faceless Appeal Centre ("NFAC"), Delhi for assessment years 2013-14 and 2014-15.

2. We find no representation on behalf of the assessee nor any application filed seeking adjournment. Thus, the assessee called absent and set ex-parte. Therefore, we proceed to dispose of both the appeals by hearing the ld. DR and perusing the material available on record.

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

4. First, we shall take up appeal of assessee in ITA No. 457/PUN/2022 for A.Y. 2013-14.

5. The only issue is to be decided is as to whether the CIT(A), NFAC, Delhi is justified in upholding the levy of fee u/s. 234E of the Act for default in furnishing TDS statement for A.Y. 2013-14 in the facts and circumstances of the case.

6. Heard ld. DR and perused the material available on record. We note that fee for default in furnishing the TDS statements have been imposed on the assessee u/s. 234E of the Act for the financial year 2012-13 (A.Y. 2013-14). Section 200A deals with processing of TDS statements of tax deducted at source and Clause (c) of sub-section (1) of section 200A 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 such circumstances, levy of such fee u/s.234E can be levied only after 01-06-2015 for the default committed by the assessee. We find that the period covered in the present subject appeal before us is financial year 2012-13 (A.Y. 2013-14). Therefore, we hold that the amendment by insertion of Clause (c) to sub-section (1) of section 200A of the Act is not applicable, therefore, the order of CIT(A), NFAC, Delhi is not justified and it is set aside.

7. In the result, the appeal of assessee is allowed.

ITA No. 458/PUN/2022 for A.Y. 2014-15

8. We find that the issue raised in the appeal and the facts in ITA No. 458/PUN/2022 is identical to ITA No. 457/PUN/2022 except the variance in amount and period. Since, the facts in ITA No. 458/PUN/2022 is similar to ITA No. 457/PUN/2022, the findings given by us while deciding the grounds of appeal of assessee in ITA No. 457/PUN/2022 would *mutatis mutandis* apply to ITA No. 458/PUN/2022, as well. The appeal of assessee is allowed, accordingly.

9. In the result, both the appeals of assessee are allowed.

Order pronounced in the open court on 21st December, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 21st December, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), NFAC, Delhi.
4. The CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "सी" बेंच, पुणे / DR, ITAT, "C" 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