

आयकर अपीलिय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

Sr. No	Appeal Numbers	Assessment Years	Appellant	Respondent
1	ITA No.135/Chny/2023	2009-10	M/s. Avon Global Solutions Pvt. Ltd. No.42, Jaleel Towers, K.B. Dasan Road, Teynampet, Chennai – 600 018. [PAN: AAGCA-4175-M]	ITO TDS Ward-1(3), Chennai.
2	ITA No.136/Chny/2023	2010-11		
3	ITA No.137/Chny/2023	2011-12		
4	ITA No.138/Chny/2023	2012-13		
5	ITA No.139/Chny/2023	2013-14		
6	ITA No.140/Chny/2023	2014-15		
7	ITA No.141/Chny/2023	2015-16		
8	ITA No.142/Chny/2023	2016-17		
9	ITA No.143/Chny/2023	2017-18		
10	ITA No.144/Chny/2023	2018-19		
11	ITA No.145/Chny/2023	2019-20		
12	ITA No.146/Chny/2023	2020-21		

अपीलार्थी की ओरसे/ Appellant by	:	Ms. N.V. Lakshmi (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri AR. V Sreenivasan (Addl. CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	27-03-2023
घोषणा की तारीख / Date of Pronouncement	:	27-03-2023

आदेश / ORDER

Per Bench:

1. The grievance of the assessee, in all the captioned appeals, is identical i.e., levy of fees 234E for late filing of quarterly TDS returns. The Ld. AR submitted that due to inadvertent error, wrong orders were appealed before Ld. CIT(A). The Ld. Sr. DR, on the other hand, drawing attention to impugned orders, submitted that the orders appealed by the

assessee were not appealable orders and therefore, the appeals have rightly been dismissed by first appellate authority. Having heard rival submissions, the appeals are disposed-off as under.

2. Aggrieved by levy of fees u/s 234E for various assessment years, the assessee preferred further appeal before Ld. CIT(A). The same has been tabulated in para-4 of the impugned order for AY 2009-10. However, it was noted that the assessee preferred appeal against recovery letter issued by AO on 16-12-2020 whereas orders were passed u/s 201 much earlier. The assessee expressed inability of furnish the copies of the order as required by Ld. CIT(A). In the absence of any satisfactory reply forthcoming from the assessee, Ld. CIT(A) held that the assessee preferred appeal against recovery letter which, in fact, is not an appealable order u/s 246A. Therefore, the appeals were not maintainable. In few of the years for which details were made available, orders u/s 200A were found to be passed before more than 10 years ago. The same has been tabulated in para-6 of the impugned order. The assessee failed to explain the inordinate delay and could not demonstrate any sufficient cause for such inordinate delay. Accordingly, the appeals were dismissed for want of condonation of delay and also on the ground that the appeals were not maintainable. The Ld. CIT(A) also held that fees u/s 234E was a statutory fees which could be levied w.e.f. 01-07-2012 as per the decision of Hon'ble Gujarat High Court in **Rajesh Kourani vs. UOI (83 Taxmann.com 137)**. Accordingly, the appeal was dismissed. Similar adjudication was rendered for all the years against which the assessee is in further appeal before us.

3. Having considered impugned order, it could be seen that the assessee has preferred appeal against recovery letters which are not, at

all, appealable orders u/s 246A. Therefore, the appeals are liable to be dismissed on this score only. Moreover, the assessee seeks to challenge the orders passed for more than 10 years ago without demonstrating any sufficient cause for such inordinate delay. Therefore, we are not inclined to interfere in the impugned orders, in any manner. We are also of the considered opinion that fee u/s 234E is statutory fees and the same is a mandatory levy w.e.f. 01-06-2015 as per the most favorable decision of Hon'ble High Court of Karnataka in **Fatehraj Singhvi V/s Union of India (73 Taxmann.com 252 26/08/2016)**. Therefore, no interference is called for in the impugned orders.

4. All the appeals stand dismissed.

Order pronounced on 27th March, 2023.

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 27-03-2023
EDN/-

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF