

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos.348 to 350/Bang/2023
Assessment Years : 2013-14 to 2015-16

M/s. Balram Corporate Services Pvt. Ltd., No.1266, 2 <sup>nd</sup> Main, HSR Layout, Sector 1, Bengaluru – 560 102. <b>PAN : BLRBO 9898 A</b>	Vs.	The Income Tax Officer (TDS), Ward – 1(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Guruswamy H, ITP
Revenue by	:	Shri. Sankar Ganesh K, Addl. CIT(DR), ITAT, Bengaluru.

Date of hearing	:	21.06.2023
Date of Pronouncement	:	21.06.2023

**ORDER**

***Per Bench:***

These appeals at the instance of the assessee are directed against three orders of CIT(A) (all dated 17.03.2023), passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Years are 2013-14 to 2015-16.

2. Common issues are raised in these appeals, hence the appeals were heard together and are being disposed off by this consolidated order. Identical grounds are raised and they read as follows:

1. *The impugned Order u/s. 250 of the Act dated: 17-03-2023 passed by the National Faceless Appeal Centre, Delhi is opposed to law, facts and circumstances of the case.*
2. *The Ld. CIT(A) has erred in confirming the levy of fee/penalty/interest without appreciating the facts and circumstances of the case.*

3. *The Ld. CIT(A) has erred in confirming the levy of fee/ penalty/ interest without appreciating the judicial orders of the Jurisdictional High Court/Hon'ble ITAT.*
4. *The Ld. CIT(A) has erred in confirming the levy of fee/penalty/interest without appreciating the fact that the levy not applicable since the amended provision is not applicable retrospectively.*

3. Brief facts of the case are as follows:

For Assessment Years 2013-14, 2014-15 and 2015-16, assessee filed TDS statement in Form No.24Q for quarter-4 belatedly. The Central Processing Centre (CPC), while processing the TDS statement under section 200A of the Act, levied late fee under section 234E of the Act. The details of the late fees under section 234E of the Act, interest and the total amount are as follows:

<b>Assessment year</b>	<b>Late Fee u/s. 234E</b>	<b>Interest</b>	<b>Amount</b>
<b>2013-14</b>	50,200/-	13,200/-	63,400/-
<b>2014-15</b>	74,400/-	25,200/-	99,600/-
<b>2015-16</b>	1,28,800/-	30,492/-	1,59,292/-

4. Aggrieved, assessee filed appeals before the First Appellate Authority for Assessment Years 2013-14 to 2015-16. The CIT(A) dismissed the appeals *in limine* by holding that the assessee has not filed appeals against order passed under section 200A of the Act, but instead the appeals have been preferred against reminder issued by the ITO(TDS), Bengaluru, on 30.12.2020. The CIT(A) thereby confirmed the levy of late fee under section 234E of the Act, for the Assessment Years 2013-14 to 2015-16.

5. Aggrieved by the orders of the CIT(A), assessee has filed the present appeals before the Tribunal. The learned AR submitted that the Revenue has not served any intimation under section 200A of the Act except the letter of the ITO intimating the outstanding demand. The learned AR relied on the various judicial pronouncements in support of his case that levy of late fees under section 234E of the Act is bad in law.

6. The learned DR supported the orders of the CIT(A).

7. We have heard the rival submission and perused the material on record. The solitary issue for adjudication is regarding levy of late fees under section 234E of the Act. There is nothing on record to show that assessee has been served with an intimation under section 200A of the Act for Assessment Years 2013-14 to 2015-16. The reminder letter issued by the ITO(TDS) on 30.12.2020 regarding the payment of outstanding demands payable for the quarter for the above mentioned Assessment Years are placed on record along with Form No.36. The CIT(A) had dismissed the appeals of the assessee by stating the appeals have been preferred against the intimation of demand and not against the order under section 200A of the Act. The CIT(A) has not held that there is a delay in filing the appeals before him, if the time limit is calculated from the orders passed under section 200A of the Act. In the interest of justice and equity, the CIT(A) ought to have decided the cases on merits instead of dismissing them *in limine*.

8. As regard the issue on merits, it is well settled now that the provisions of charging of late fees under section 234E of the Act was introduced w.e.f. 01.06.2015. The following judicial pronouncements have clearly held that the amendment w.e.f. 01.06.2015 will be only prospective and not retrospective.

- *Fatheraj Singhvi Vs. Union of India in Writ Appeal No. 2663-2674/2015(T-IT) dtd: 26-08-2016*
- *M/s. Kooud Software Pvt Ltd Vs. DCIT CPC, Ghaziabad-UP, ITA No. 82 to 90/Bang/2022 dtd: 25-03-2022*
- *Nagesh Consultants Vs. DCIT CPC-TDS Circle - 2(1.), Bangalore ITA No. 32/Bang/2023 dtd: 07-03-2023*
- *Thomas Abraham Vs. ITO (TDS) Circle - 1(3)(3) Bangalore, ITA No. 387 to 390/Bang/2022 dtd: 29-07-2022 A Bunch of 285 Appeals of M/s. Kerala Gramina Bank v/s. ITO (TDS) Trivandrum and other places, dtd: 01-08-2022, Cochin Bench, Cochin*
- *M/s. Kerala Gramin Bank Vs. ITO (TDS) Trivandrum and other places, ITA No.145/Coch/2022 and others, for Assessment Year 2013-14 dtd: 01-08-2022, Cochin Bench, Cochin.*

9. In view of the above-mentioned judicial pronouncements, we hold that issue relating to charging of interest under section 234E of the Act is covered in favour of the assessee and we delete the late fee charges under section 234E of the Act, for the Assessment Years 2013-14 to 2015-16. It is ordered accordingly.

10. In the result, the appeals filed by the assessee are allowed.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-

**(LAXMI PRASAD SAHU)**  
**Accountant Member**

Sd/-

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 21.06.2023.

/NS/\*

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|-------------------------|---------------|
| 1. Appellants           | 2. Respondent |
| 3. CIT                  | 4. CIT(A)     |
| 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.