

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAIPUR BENCH, RAIPUR

BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

Sl. No.	ITA No.	Name of the Appellant	Name of the Respondent	Asst. Years	Quarter	Form
1-3	255/RPR/2022 256/RPR/2022 257/RPR/2022	EE RES Division Rajnandgaon, Collectorate Campus, G.E. Road, Rajnandgaon-491 441 PAN :AAAGE0303H	The DCIT(CPC- TDS), Ghaziabad	2014-15 2014-15 2014-15	Qr.2 Qr.1 Qr.4	24Q 24Q 24Q

Assessee by : None (written submission)  
Revenue by : Shri Satya Prakash Sharma, Sr. DR

सुनवाई की तारीख / Date of Hearing : 08.08.2023

घोषणा की तारीख / Date of Pronouncement : 08.08.2023

**आदेश / ORDER****PER RAVISH SOOD, JM:**

The captioned appeals filed by the assessee which is a department of State Government of Chhattisgarh providing engineering services in the rural areas, in District: Rajnandgaon of Chhattisgarh, are directed against the consolidated order passed by the CIT(Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 14.10.2022 which in turn arises from the intimation received from the Deputy Commissioner of Income Tax, Central Processing Cell-TDS, Ghaziabad u/s.200A of the Income Tax Act, 1961 (for short 'the Act') dated 29.06.2016.

2. Briefly stated, the assessee had delayed the filing of its statements of tax deduction at source for the first, second and fourth quarters for A.Y.2014-15. Resultantly, the DCIT, Central Processing Cell-TDS levied late filing fees of Rs.23,000/-, Rs.24,800/- and Rs.15,800/-, respectively for the aforementioned quarters u/s.234E of the Act.

3. Aggrieved the assessee assailed the imposition of late filing fees u/s.234E of the Act before the CIT(Appeals). The CIT(Appeals) observing that the assessee appellant had filed duplicate appeals, therefore, took up one of the appeals i.e. NFAC/2013-14/10139209 for adjudication and dismissed the captioned appeals. For the sake of clarity, relevant observations of the CIT(Appeals) are culled out as under:

**“4. Decision :**

The only ground of appeal relates to the issue of chargeability of late fee u/s.234E over the late filing of TDS statements for the period prior to 31.05.2015.

4.1. In this case Appeal No. NFAC/2013-14/10139209, NFAC/2013-14/10139210, NFAC/2013-14/10139208, NFAC/2013-14/10139303, NFAC/2013-14/10139206 and NFAC/2013-14/10139204 are same appeals as it is seen that the Assessment years, statement of facts, grounds of appeal, Amount of late fees, appeal filing date, PAN, address and date of order against which appeal was filed are also same. Hence, it is concluded that the appellant filed duplicate appeals, therefore, the only appeal no. NFAC/2013-14/10139209 is being considered for adjudication and other appeals as mentioned above is hereby dismissed on the basis of duplicate appeals filed by the appellant.

**5. Result :**

In the result, for statistical purpose, the appeal is dismissed.”

4. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us. The assessee has filed before us its written submissions.

5. We have heard the Ld. Departmental Representative (for short 'DR'), perused the orders of the lower authorities and the written submissions filed by the assessee as well as the judicial pronouncements relied upon by the latter.

6. At the very outset, we may herein observe that the CIT(Appeals), NFAC had while dismissing of the appeals filed by the assessee on the ground that it had filed duplicate appeals, had grossly misconceived the correct factual position. Our

aforesaid view can safely be gathered by referring to the written submissions of the assessee which are culled out as under (relevant extract):-

“5. The appellant was required to file quarterly return of TDS in respect of TDS made out of payments of Salaries to employees and from payment other than salary and therefore, the appellant was required to submit 2 returns of TDS every quarter.

6. The learned Commissioner of Income Tax (Appeals) did not visualize the fact and instead, simply dismissed the appeals without verifying as to the appeal were related to different quarters of the year in respect of Form 24 and Form 26. Had he given an opportunity of being heard the facts would have been brought to his notice by the appellant and the situation of dismissal of the appeals without going into the matter and material available with him would not have arisen.”

As stated by the assessee appellant and, rightly so, we find that as the appeals that were filed before the CIT(Appeals) pertained to first quarter, second quarter and fourth quarter for A.Y.2014-15, therefore, he had wrongly concluded that the assessee had filed duplicate appeals before him. Although the matter in the normal course would have been restored by us to the file of the CIT(Appeals) for fresh adjudication, but we are of the considered view that as the issue involved in the captioned appeals is squarely covered, therefore, in order to avoid multiplicity of litigation the same are being disposed off by us.

7. Apropos the merits of the case, we find that the assessee had delayed the filing of the statements of the tax deducted at source in "Form No. 24Q" for the first quarter, second quarter and fourth quarter for financial year 2013-14. As is discernible from the records, the aforesaid statements were filed by the assessee

on 07.08.2014. On the basis of the intimation under Sec. 200A late filing fee of Rs.23,000/-, Rs.24,800/- and Rs.15,800/- was levied for the aforesaid quarters under Sec. 234E on the assessee. We find that the **Hon'ble High Court of Karnataka** in the case of **Fatehraj Singhavi Vs. Union of India (2016) 289 CTR 602 (Kar)** had concluded that the notice under Sec.200A computing the fee under Sec. 234E, to the extent the same was levied in respect of the period of tax deduction prior to 01.06.2015 was liable to be "set aside". The aforesaid judgment of the Hon'ble High Court of Karnataka had thereafter been relied upon by the **ITAT, Chandigarh** in the case of **Sonalac Paint & Coating Ltd. Vs. DCIT, (2018) 176 DTR 83 (Chd)**, wherein it was observed as under:

"In the aforesaid case it was observed by the Tribunal that levy of fees under Sec.234E while processing the TDS returns under Sec.200A prior to 01.06.2015 was without any authority of law. On the basis of its aforesaid observations, the Tribunal had concluded that the fees levied under Sec.234E prior to 01.06.2015 in the intimations made under Sec. 200A was without authority of law and the fees therein levied was liable to be deleted. Apart therefrom, we find that the issue involved in the appeal before us is also covered by an order of the ITAT, Amritsar in the case of Tata Rice Mills Vs. ACIT (CPC), TDS Ghaziabad (ITA No. 395/ASR/2016; dated 25.10.2017. In the aforementioned case, it was observed by the Tribunal that the assessee had filed its statement of tax deduction at source for the "second quarter" relevant to Financial year 2014-15 on 19th June, 2015, which was thereafter processed on 23.06.2015 by the ACIT-TDS, CPC and a late fee under Sec. 234E of Rs. 49,400/- was charged in the intimation issued under Sec. 200A of the I.T. Act. It was observed by the Tribunal that as the amendment made under Sec.200A was effective from 01.06.2015 and applicable prospectively, hence no computation of fee under Sec.234E could be made for the TDS deducted prior to 01.06.2015.

7. We have given a thoughtful consideration to the issue before us and finding ourselves as being in agreement with the view taken by the Tribunal in the case of Tata Rice Mills (supra), hence are of the considered view that the ACIT-TDS, CPC Ghaziabad in the case

before us had erred in levying fees under Sec.234E in respect of tax deducted at source for the four quarters prior to 01.06.2015 in respect of the captioned years viz. A.Y. 2013-14, 2014-15 and A.Y.2015-16. We thus not being persuaded to subscribe to the view taken by the CIT(A) who had upheld the levy of fees by the A.O, thus set aside his order and vacate the demand raised by the A.O under Sec.234E in the hands of the assessee for all the four quarters for the year under consideration."

As in the present cases before us, the fees under Sec.234E has been levied in respect of the delay on the part of the assessee for filing its TDS return in "Form 24Q" for the first quarter, second quarter and fourth quarter of financial year 2013-14 i.e the period prior to 01.06.2015 ( i.e. the cut of date from which the amendment enabling levy of fees under Sec. 234E was made available in Sec.200A), therefore, we are of the considered view, that in the backdrop of the aforesaid settled position of law, as per which, in the course of the processing of a statement of tax deducted at source under Sec.200A no fees under Sec.234E could be charged for the period prior to 01.06.2015, the aforesaid fees for late filing of TDS statements by the assessee cannot be sustained and is liable to be vacated. Accordingly, we set aside the late filing fees charged by the A.O under Sec.234E in the case of the assessee before us.

8. Resultantly, the order of the CIT(Appeals) is set-aside and the late filing fees of Rs.23,000/-, Rs.24,800/- and Rs.15,800/- imposed under Sec.234E for the aforementioned first quarter, second quarter and fourth quarter of F.Y.2013-14 are deleted.

9. In the result, appeals of the assessee are allowed in terms of our aforesaid observations.

Order pronounced in open court on 08<sup>th</sup> day of August, 2023.

Sd/-  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**RAVISH SOOD**  
**(JUDICIAL MEMBER)**

रायपुर/ RAIPUR ; दिनांक / Dated : 08<sup>th</sup> August, 2023  
SB

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G)
4. The Pr. CIT, Raipur-1 (C.G)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,  
रायपुर / DR, ITAT, Raipur Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.