



॥ आयकर अपीलीय न्यायाधिकरण, नागपुर न्यायपीठ, पुणे में ॥



IN THE INCOME TAX APPELLATE TRIBUNAL, NAGPUR BENCH, PUNE

(Through Virtual Hearing)

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

AND

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

Sr	ITA No(s).	Appellant	Respondent	Asstt. Yr.	Qtr.	Form	
1-9	60/NAG/2020 to 68/NAG/2020	Archana Vidyaniketan Lakhpuri Murtizapur, Dist – Akola – 444107 Maharashtra PAN : AAETA9080E	ACIT, CPC-TDS, Ghaziabad	2014-15	Q1	24Q	
				2014-15	Q2	24Q	
				2014-15	Q3	24Q	
				2014-15	Q4	24Q	
				2015-16	Q1	24Q	
				2015-16	Q2	24Q	
				2015-16	Q3	24Q	
				2015-16	Q4	24Q	
2016-17	Q1	24Q					
10-15	42/NAG/2020 To 47/NAG/2020	M/s Mayon's Pharmaceuticals Pvt. Ltd. Quaemi Baugh, Near Itwari Railway Station, Shanti Nagar, Nagpur – 440002 PAN: AAECM1515F	ACIT, CPC-TDS, Ghaziabad	2013-14	Q2	26Q	
				2013-14	Q3	26Q	
				2013-14	Q4	26Q	
				2014-15	Q1	26Q	
				2014-15	Q3	26Q	
				2015-16	Q4	26Q	
16-18	98/NAG/2020 to 100/NAG/2020	Naivedhyam Banquets and Foods Pvt. Ltd. House No.1252, Plot G & H, Ward No.22, Chikhli Layout, Bharat Nagar Square, Nagpur – 440008 PAN: AAECN4420E	ACIT, CPC-TDS, Ghaziabad	2015-16	Q2	24Q	
				2015-16	Q3	24Q	
				2015-16	Q4	24Q	
19-21	416/NAG/2019 to 418/NAG/2019	M/s. Manasvi Projects Pvt. Ltd., 21, Yashodham Shopping Center, Gen A K Vaidya Marg, Goregaon (E), Mumbai – 400063 PAN: AABCM5230A	ACIT, CPC-TDS, Ghaziabad	2013-14	Q4	26Q	
				2014-15	Q4	24Q	
				2013-14	Q4	24Q	
22-23	35/NAG/2020 & 36/NAG/2020	Adilok Vidyalaya Bodunda At Bodunda, Dist. Gondia, Maharashtra – 441801 TAN : NGPAO3076D	ITO TDS, Ward 2(4), Bhandara	2014-15	Q4	24Q	
				2015-16	Q4	26Q	



द्वारा / Appearances

Assessee by : Shri H.H. Chimthanawala (For Sr.No. 1-9)
Shri Mahavir Atal (For Sr.No.10-15)
Shri K.P. Dewani (For Sr.No.16-18)
None for Sr.No.19-21
Shri Jaipal C. Nunani (For Sr. No. 22-23)
Revenue by : Shri G. J. Ninawe
सुनवाई की तारीख / Date of conclusive Hearing : 14/10/2022
घोषणा की तारीख / Date of Pronouncement : 14/10/2022

आदेश / ORDER

PER G. D. PADMAHSHALI, AM;

The present appeals of different assessee are assailed against respective orders of Commissioner of Income Tax (Appeals) [for short "**CIT(A)**"] passed u/s 250 of the Income-tax Act, 1961 [for short "**the Act**"], which ascended out of respective orders of intimation processed by the ACIT, CPC-TDS, Ghaziabad [for short "**AO**"] for the assessment years [for short "**AY**"] 2013-14 to 2016-17.

2. This seeks to adjudicate the issue of authorisation of levy of fees u/s 234E for default in furnishing statement u/s 200(3) in the absence of enabling provision.

3. Since the facts and issue involved in these bunch of twenty three appeals are identical, with the agreement of both the parties; are clubbed and heard together for a consolidated order.



4. Before we proceed for adjudication, it is essential to reproduce the grounds challenged by appellant, as;

“1. Whether on the facts and circumstances of the case learned CIT(A) erred in confirming fees levied U/S 234E by assessing officer.

2. Appellant craves leave to add or alter any other ground that may be taken at the time of hearing.”

5. Succinctly stated the facts of the case are; the appellant assessee failed to deliver the statements within the time limit specified in sub-section (3) of section 200, consequently against such default, the Ld. AO levied late filing fees u/s 234E. Aggrieved by the said levy, the assessee carried the matter unsuccessfully before the first appellate authority [for short **“FAA”**], for the reason the appellant is before this Tribunal challenging the levy of fees in the absence of authority and enabling provisions.

6. We have heard the rival contentions of both the parties; and subject to the provisions of rule 18 of Income Tax Appellate Tribunal Rules, 1963 [for short **“ITAT, Rules”**] perused the material placed on record, case laws relied upon by the appellant as well the respondent and



duly considered the facts of the case in the light of settled legal position forewarned to either parties.

7. It shall serve to state that, a person liable to deduct any sum under the provisions of chapter XVII of the Act, is under obligation to deliver or furnish a statement u/s 200(3) of the Act within the due date prescribed therein and in the event of default, is exposed to section 234E of the Act. Although the levy of fees u/s 234E for delay in furnishing statement has been brought into statute w.e.f. 1st July, 2012, the enabling provision of section 200A(1)(c) authorising such levy came into force w.e.f. 1st June, 2015 by Finance Act, 2015, consequently the fees levied for any default prior thereto being **sine auctoritate** hence unsustainable in the eyes of law. For the sake brevity the applicability of provisions can be adumbrated as;

Assessment Year	Provision Enabling for		Date of	
	Charring of Fees u/s 234E	Processing of Statement u/s 200A(1)(c)	Statement furnished u/s 200(3)	Effective Levy runs from (Delay)
Any AY, upto 2012-13	Not Present	Not Provided	By 31st May, 2015	-
			After 1st June, 2015	1st June, 2015
2013-14 to 2015-16	Enacted	Not Provided	By 31st May, 2015	-
			After 1st June, 2015	1st June, 2015
From 2016-17	Present	Provided	By 31st May, 2015	-
			After 1st June, 2015	1st June, 2015



8. Undisputedly, in the present case, the Ld. AO processed the statement and levied the fees u/s 234E for delayed furnishing in the absence of enabling provision of section 200A(1)(c) of the Act, such levy suffers from infirmity in the light of decision of Hon'ble High Court of Karnataka in "**Fatheraj Singhvi & Ors Vs UOI**" reported in 289 CTR 602, ergo we order accordingly.

9. ITA No. **61/NAG/2020 to 67/NAG/2020.**

The facts and issue in this bunch of seven appeals are identical; the adjudication laid in ITA No. **60/PUN/2020** shall *mutatis mutandis* apply to ITA No. **61/NAG/2020 to 67/NAG/2020.**

10. ITA No. **68/NAG/2020;** In the extant appeal, the statement for the AY 2016-17 was admitted furnished beyond the due date prescribed, resultantly the Ld. AO exercising the provisions of section 200A(1)(c) levied fees for default occurred post 1st June, 2015, which in an appeal confirmed by the Ld. FAA being *intra-legem*. During the virtual hearing, the Ld. AR, adverting to provision of section 273B contended that, the delay in filing was



attributable to technical glitches encountered by the appellant and same being a reasonable cause prayed for deletion. ***Au Contraire*** Ld. DR in rebuttal vehemently submitting that, the provision of section 234E is outside the umbrella of section 273B of the Act and we finding force in the argument of the Revenue, are of the considered view that, levy of late fee prescribed u/s 234E is mandatory and consequential in nature, therefore, the same cannot be deleted on the ground of reasonable cause as explained by the appellant, thus the ground stands adjudicated against the appellant.

11. **ITA No. 42/NAG/2020 to 47/NAG/2020;** the facts and issue in this bunch of six appeals are identical; the adjudication laid in ITA No. **60/PUN/2020** shall ***mutatis mutandis*** apply to ITA No. **42/NAG/2020 to 47/NAG/2020.**

12. **ITA No. 98/NAG/2020 to 100/NAG/2020;** the facts and issue in this bunch of three appeals are identical; the adjudication laid in ITA No. **60/PUN/2020** shall ***mutatis mutandis*** apply to ITA No. **98/NAG/2020 to 100/NAG/2020.**



13. **ITA No. 416/NAG/2019 to 418/NAG/2019;** the facts and issue in this bunch of three appeals are identical; the adjudication laid in ITA No. **60/PUN/2020** shall ***mutatis mutandis*** apply to ITA No. **416/NAG/2019 to 418/NAG/2019.**

14. **ITA No. 35/NAG/2020 to 36/NAG/2020;** the facts and issue in this bunch of two appeals are identical; the adjudication laid in ITA No. **60/PUN/2020** shall ***mutatis mutandis*** apply to ITA No. **35/NAG/2020 to 36/NAG/2020.**

15. **Resultantly, the appeal of the appellant in ITA No. 68/NAG/2020 stands dismissed, and all remaining appeals of the appellants are allowed in above terms.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Friday 14th day of October, 2022.

-S/d-

S. S. GODARA
JUDICIAL MEMBER

-S/d-

G. D. PADMAHALI
ACCOUNTANT MEMBER

पुणे / PUNE ; दिनांक / Dated : 14th day of October, 2022.

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(TDS), Nagpur (M.H.-India)
4. The CIT(A)-2, Nagpur (M.H.-India)
5. DR, ITAT, Nagpur Bench, Pune
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY RDER,
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.