

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR

BEFORE SHRI R.S. SYAL, HON. VICE-PRESIDENT &
SHRI PARTHA SARATHI CHAUDHURY, HON. JUDICIAL MEMBER
(Through virtual hearing)

ITA Nos.332 & 333/NAG/2022
(A.Ys. 2013-14 & 2014-15)

Gurindersingh Indrajeetsingh Nayyar, 101, Shelter Regency, Nailsons Square, Katol Road, Nagpur-440 002. PAN: AASPN 8256 D	vs	ACIT, CPC-TDS, Ghaziabad.
Appellant		Respondent

ITA Nos.367/NAG/2022
(A.Y. 2013-14)

Baljindersingh Indrajeetsingh Nayyar, Cotton Market Square, Near Loha Pool, Nagpur-440 018. PAN: AAZPN 3390 B	vs	ACIT, CPC-TDS, Ghaziabad.
Appellant		Respondent

Assessee by	:	Shri Abhay Agrawal, Adv.
Revenue by	:	Shri Rishi Kumar Bisen, DR
Date of hearing	:	21/08/2023
Date of pronouncement	:	23/08/2023

O R D E R

Per PARTHA SARATHI CHAUDHURY, JM:

These appeals preferred by the different assesseees emanates from the separates orders of National Faceless Appeal Centre [NFAC], Delhi, dated 31.03.2021, 31/03/201 & 21/09/2021 for A.Ys. 2013-14,

2014-15 & 2013-14 respectively, as per the grounds of appeals on record.

2. The only issue raised in these appeals is the charging of late fees u/sec. 234E of the Income Tax Act, 1961 (for short, "the Act") for Qtr.4 arising in A.Ys. 2013-14, 2014-15 & 2013-14.

3. At the outset, it is observed that there is a delay of 506 days in ITA No.332/NAG/2022; 513 days in ITA No.333/NAG/2022; and 332 days in ITA No.367/NAG/2022 in presenting the appeals before the Tribunal. Ld.counsel for the assessee has filed affidavits regarding condonation of delay and explained the delay at the time of hearing, and after hearing the submissions and going through the contents of the same, we observe that such delay cannot be attributed to any deliberate or *malafide* intention of the assessee, if any, in these cases, and such delay was rather caused due to various circumstances beyond the control of the assessee. Ld.DR also did not raise any objection for condonation of delay. Hence, the delay in filing all these appeals is condoned and the cases were heard and adjudicated on merits. Since the facts and circumstances and issues in these appeals are absolutely similar and identical, all the matters were heard together and disposed off vide this consolidated order.

4. The brief facts of the case(s) are that the assessee filed the TDS returns for the respective quarters belatedly. Based on that, the

Assessing Officer (AO) levied late fee u/sec. 234E of the Act. The assessee(s) approached the NFAC but without success. Aggrieved thereby, the assessee(s) has approached the Tribunal.

5. We have heard the rival submissions and perused the relevant material on record.

5.1 The solitary issue raised in all the appeals is against confirmation of fee u/sec. 234E imposed by the AO. The assessment years involved in these appeals are 2013-14 & 2014-15, which shows that the fees u/sec.234E has been imposed for the delay in furnishing the statements for quarters prior to 01/06/2015.

5.2 Sec. 200A deals with processing of statements of tax deducted at source. Clause (c) of sec.200A(1) was inserted by Finance Act, 2015 w.e.f. 01/06/2015 providing for levy of fee u/sec. 234E of the Act. In that view of the matter, such fee u/sec. 234E can be levied only for the default committed after 01/06/2015 and not prior to that. The Hon'ble Kerala High Court in *Olari Little Flower Kuries (P.) Ltd. v. UOI & Ors.* (2022) 440 ITR 26 (Ker.) has confirmed the non-imposition of fee for the period prior to 01/06/2015. Similar view has been taken in *Jiji Varghese v. ITO (TDS)* (2022) 443 ITR 267 (Ker.) holding that no interest u/sec. 234E can be imposed for the period of respective assessment years prior to June 01, 2015. Thus, it is seen that issue raised in these appeals is covered in favour of the assessee. Following

the precedents, we overturn the impugned order(s) on the sole issue.

6. In the result, all the appeals filed by the assessee(s) stands allowed.

Order pronounced in open Court on 23rd August, 2023.

Sd/-
(R.S. SYAL)
VICE-PRESIDENT

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 23rd August, 2023

vr/-

Copy to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT concerned.
5. The DR, ITAT, Nagpur Bench, Nagpur.
6. Guard File.

By Order

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.