

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.761/Chny/2023
निर्धारण वर्ष/Assessment Year: 2015-16

Shri Kadarmohideen Yusuff Basha,
4/59, Bharathi Street, Swarnapuri,
Salem, Tamil Nadu 636 004.

Vs. The Income Tax Officer,
TDS Ward,
Salem.

[PAN:AAKPY3214A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri I. Dinesh, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 22.08.2023
घोषणा की तारीख /Date of Pronouncement : 22.08.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 18, Chennai, dated 14.03.2023 relevant to the assessment year 2015-16.

2. The appeal of the assessee is filed with a delay of 26 days in filing the appeal before the Tribunal. The assessee has filed a petition for condonation of delay in the form of an affidavit mentioning the reasons for delay in filing the appeal. By referring to the above affidavit, the Id. Counsel for the assessee has submitted that there is reasonable cause

for the delay and the delay in filing the appeal is neither wilful nor wanton and prayed for condonation of delay and to admit the appeal for adjudication. Against the above submissions, the Id. DR has not raised any serious objection. Considering the affidavit filed for condonation of delay, we hereby condone the delay in filing the appeal and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee has deducted tax on various payments made during the financial year 2014-15 pertaining to the assessment year 2015-16. The assessee filed statement of tax deducted in the Form for the relevant quarters after the due date(s) prescribed for the purpose. The AO, vide his intimation of outstanding demand, sent notice to the assessee stating the outstanding demand of ₹.58,400/- for the assessment year 2015-16 as late filing fee under section 234E of the Act. On appeal, the Id. CIT(A) dismissed the appeal of the assessee by observing that the levy of late fee under section 234E of the Act is in order and needs no interference.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the Id. CIT(A) has erred in not condoning the delay in filing the appeal even though there was sufficient cause for the delay in filing the appeal. It was further

submission that the Id. CIT(A) has erred in confirming levy of late filing fee under section 234E of the Act without considering the submissions made by the assessee.

5. On the other hand, the Id. DR has submitted that the assessee should have filed an appeal against the order of the DCIT(TDS), CPC dated 30.04.2015, whereas, the assessee preferred the appeal before the Id. CIT(A) after a long delay of more than four years and nine months. It was further submission that the appeal filed before the Id. CIT(A) is infructuous and strongly supported the order passed by the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the order passed by the Id. CIT(A). The only issue involved in this appeal is relating to confirmation of late filing fee levied under section 234E of the Act for the delay in filing quarterly statements of deduction of taxes under section 200(3) of the Act. In this case, the Id. CIT(A) has recorded that the assessee should have filed an appeal against the order of the DCIT(TDS), CPC dated 30.04.2015 and whereas, the appeal has been filed after a long delay on 24.02.2020 when the outstanding demand has been raised on 26.06.2019. Therefore, the Id. CIT(A) dismissed the appeal of the assessee on the ground that

the appeal is infructuous. On this count, there was no submission from the Id. Counsel for the assessee.

6.1 The Id. CIT(A) has also considered on merits and passed detailed order by observed as under:

6.6 Section 234E was introduced w.e.f. 1/7/2012, to ensure that quarterly statements are filed promptly within the prescribed period of time. This fee is levied for the reason that the assessee is allowed to file TDS statement beyond the prescribed period of time and this fee regularises the late filing of TDS. Section 234E is only for accepting the TDS statement beyond the period of time. There is an obligation on the Income-Tax Department to process the income tax returns filed by the assessees within specified period from the date of the filing. The department can process the income tax return of a person on whose behalf tax has been deducted only when the information relating to the details of tax deducted is furnished by the deductor in a TDS statement within the prescribed time. The timely processing of returns is the bedrock of an efficient tax administration system. The Courts through various judgments have also called upon the department to look into the aspect of timely processing of returns and issue refunds. Hence, timely submission of TDS statement containing the details of person on whose behalf tax is deducted becomes very crucial. Unless and until the department receives the details of tax deduction through the TDS statement, timely processing of income tax returns having claim of TDS is not possible. In case, the department goes ahead and processes the income tax return of the assessee having claim of TDS without giving credit for TDS due to non-filing of TDS details by the deductor, then the grievance of the deductee would be increased. Non-filing or delayed filing of the TDS returns/statements by the deductor has multitude effects eroding the credibility of an efficient tax administration system. As per the existing provisions of the Income-Tax Act, a person responsible for deduction of tax is required to furnish periodical TDS Statements (quarterly) containing the details of deduction of tax made during the quarter by the prescribed due date. It was noticed that a substantial number of the deductors were not furnishing their TDS statements in time, which resulted in delay in granting of credit of TDS to the person on whose behalf tax was deducted and consequently led to delay in issue of refunds to the deductee or raising of infructuous demand against the deductee and thereby increasing the workload of the department and grievances of the assessees. Timely furnishing of TDS statement is critical for processing of income-tax return of the assessee having TDS claim because credit for tax deducted on behalf of the deductee is granted to him only on the basis of information furnished by the deductor in the TDS statement. If there is a delay in grant of credit etc., then it will result in granting refund of the tax deducted on behalf of the deductee by the deductor along with interest at the rate of half a percent every month which is a loss of revenue to the department on account of the lapse of filing the statements by the deductor. It is not uncommon that now a-days, refunds are going to the assessees within a week of filing return also and it was made possible by such levy of late fee u/s 234E discouraging the late filers of TDS statements to encourage them to file them in time, which ensures efficient tax administration by way of quick refunds through computer

processing of returns by CPC. If section 234E is not invoked, then, it will derail such robust system processing. Therefore, it is imminent to levy the late fee u/s 234E in the cases of late filers of quarterly statements u/s 200(3). It is after hearing such arguments of the department only, the Hon'ble High Court in the case of Qatalys Software Technologies (P) Ltd. vs. UOI (supra) upheld the levy of late fee u/s 234E while processing TDS quarterly statements even before 1.6.2015. Insertion of clause (c) w.e.f. 1.6.2015 in section 200A(1) only empowers the inclusion of late fee u/s 234E while computer processing of quarterly TDS statements; that does not mean late fee u/s 234E cannot be levied from 1.7.2012 to 31.5.2015, while manually processing the TDS statements u/s 200A(1), more so when section 234E has come into effect from 1.7.2012 itself.

6.7 In view of the above, it is held that the levy of late fee u/s 234E levied by the AO in this case is in order as per law and needs no interference.

6.2 We have perused the detailed and well reasoned order passed by the Id. CIT(A) on merits. Thus, we find no reason to interfere with the order passed by the Id. CIT(A) and accordingly, the ground raised by the assessee is dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 22nd August, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 22.08.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.