

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH :: NAGPUR

BEFORE SHRI R.S. SYAL, HON. VICE-PRESIDENT &
SHRI PARTHA SARATHI CHAUDHURY, HON. JUDICIAL MEMBER

ITA Nos.135 & 136/NAG/2019
(A.Y. 2015-16 & 2016-17)

Gopichand Pariyaldas Panjwani, East Gandhi Nagar, Sindhi Camp, Kacchikholi, Akola - 444 004. TAN: NGPG01523E	vs	Addl.CIT (TDS), Range-1, Nagpur.
Appellant		Respondent

ITA Nos.137 & 138/NAG/2019
(A.Y. 2015-16 & 2016-17)

Ashish Pariyaldas Panjwani, East Gandhi Nagar, Sindhi Camp, Kacchikholi, Akola - 444 004. TAN: NGPA05700C	vs	Addl.CIT (TDS), Range-1, Nagpur.
Appellant		Respondent

Assessee by	:	Shri Sanjay Thakar, Adv.
Revenue by	:	Shri Sanjay Agrawal, DR
Date of hearing	:	24/08/2023
Date of pronouncement	:	29/08/2023

O R D E R

Per PARTHA SARATHI CHAUDHURY, JM:

These appeals preferred by the different assesseees emanate from the separate orders of Commissioner of Income Tax (Appeals) [for short, 'CIT(A)']-2, Nagpur, all dated 14.12.2018 for A.Ys.2015-16 & 2016-17 as per the grounds of appeal on record.

2. All these matters pertains to the solitary issue of levy of fee for

default in furnishing statements u/sec. 234E of the Act in respect of statement referred to in sub-section (3) of sec. 200 or the proviso to sub-section (3) of sec. 206C. 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.

3. We observe 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. In that regard, we observe in ITA No.135/NAG/2019 pertains to F.Y. 2014-15 relevant to A.Y. 2015-16, the said decisions will squarely apply. Similarly, ITA No.137/NAG/2019 for F.Y. 2014-15 relevant to the A.Y. 2015-16 will also be covered in favour of the assessee by the aforesaid decisions.

4. Respectfully following the aforestated decisions, the cases of the assesseees in ITA Nos.135 & 137/NAG/2019 are decided in favour of the assesseees and these appeals are allowed. However, in ITA No.136/NAG/2019 pertains to F.Y. 2015-16 relevant to A.Y. 2016-17 and the levying of fees after or from 01/06/2015 is covered within the financial year itself. Similarly in ITA No.138/NAG/2019 also pertains

to F.Y. 2015-16 relevant to A.Y. 2016-17 wherein it is observed that fee u/sec. 234E has been rightly levied from or after 01/06/2015 within the financial year itself. Therefore, in respect of these two appeals of the assesseees, the above judicial pronouncements will not be applicable, and as observed by us, the fee u/sec. 234E has been correctly levied by the Department. Resultantly, these two appeals of the assesseees are dismissed.

5. In the combined result, appeals filed by the assesseees in ITA Nos.135 & 137/NAG/2019 are allowed and in ITA Nos.136 & 138/NAG/2019 are dismissed.

Order pronounced in open Court on 29th August, 2023.

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

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Dated : 29th 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

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Senior Private Secretary
ITAT, Pune.