

processing the statements for tax deducted at source (TDS) under section 200A of the Act.

3. We have considered rival contentions and perused materials on record.

4. Briefly stated, the assessee is a resident corporate entity. While processing the quarterly TDS statements/returns filed by the assessee for the financial years 2012-13 and 2013-14 under section 200A of the Act, Centralized Processing Centre (CPC) noticed delay in remittance of TDS amount. Accordingly, fee under section 234E of the Act was charged. The assessee contested the levy of fee under section 234E of the Act by filing appeals before the first appellate authority. However, the appeals were dismissed.

5. On a conjoint reading of section 200A and 234E of the Act, it is quite clear that though, section 234E provides for levy of fee in case of delay in filing TDS statements or paying TDS, however, there was no enabling provision for levy of such fee under section 200A of the Act. Subsequently, the Act was amended and only w.e.f. 01.06.2015, section 200A empowered the Assessing Officer to levy fee under section 234E of the Act.

6. The short issue, which arises for consideration is, whether, in absence of any specific provision under section 200A for levy of fee under section 234E prior to 01.06.2015, such fee can be charged while processing the TDS statements/returns for any period falling prior to 01.06.2015. Though, the first appellate authority has referred to a decision of the Hon'ble Gujrat High Court favouring the Revenue, however, we find, there are divergent views on the issue. In fact, Hon'ble Karnataka High Court in case of Fatehraj Singhvi Vs. UOI (2016) 73 taxmann.com 252 (Kar) has taken a contrary view and decided the issue in favour of the assessee by holding that since, section 200A of the Act did not have any express provision providing for levy of fee under section 234E of the Act prior to 01.06.2015, no such fee can be levied for any period falling prior to 01.06.2015. As per the well settled legal principles, in case, there are two contrary decisions of non-jurisdictional High Courts, the decision expressing the view in favour of the assessee has to be followed. In fact, there are number of decisions of the coordinate Benches, wherein, the aforesaid decision of Hon'ble Karnataka High Court has been followed and the issue has been decided in favour of the assessee.

Therefore, following the consistent approach of various Benches of the Tribunal, we hold that no fee under section 234E of the Act can be levied for any period prior to 01.06.2015, while processing the TDS statements/returns under section 200A of the Act. Accordingly, we delete the additions/adjustments made by the CPC. Grounds are allowed.

7. In the result, appeals are allowed.

Order pronounced in the open court on 20/09/2023.

Sd/-

(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-

(SAKTIJIT DEY)
VICE-PRESIDENT

Dated:20.09.2023

*aks/-