

।आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No.935/PUN/2023

निर्धारण वर्ष / Assessment Year : 2015-16

Yashashree Builders and Developers, Swami Suryakiran Society, S.No.16/16, Vishal Nagar, Pimple Nilakh, Pune – 411027. PAN: AABYF1726C	V s	The Income Tax Officer, TDS-3, Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri C.D.Upasani – AR
Revenue by	Shri Sourabh Nayak – Addl.CIT-DR
Date of hearing	12/02/2024
Date of pronouncement	13/02/2024

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee against the order of Ld.Commissioner of Income Tax(Appeals)[NFAC], passed under section 250 of the Income Tax Act, 1961 dated 27.06.2023. The assessee has raised the following grounds of appeal :

“1.The provisions of section 234E came into force for periods after 01.06.2015 and they were not applicable to periods prior to that date.

2. The Hon. Commissioner of Income Tax (Appeals) - NFAC has erred

in not treating the letter from the Income Tax Officer (TDS) -3, Pune as not appealable as no other communication was received from the Department,

3. Your appellant seeks justice purely on merits.

4. Your Appellant seeks leave to add, alter, modify or delete any of the above grounds of appeal.”

Submission of ld.AR :

2. The ld.Authorised Representative(ld.AR) of the assessee filed a paper book and submitted that the Assessing Officer(AO) has levied late fee under section 234E of the Act for F.Y.2014-15. However, the amendment to section 234E is w.e.f 01.06.2015, therefore, in assessee’s case, no late fee can be levied under section 234E of the Act. The assessee relied on order of ITAT Pune Bench in the case of M.E.S.High School Vs. ITO(TDS) in ITA No.96 & 97/ PUN/2023 for A.Y. 2013-14 & 2014-15 dated 03.05.2023.

Submission of ld.DR :

3. The ld.Departmental Representative(ld.DR) for the Revenue vehemently submitted that in this case ld.CIT(A) had dismissed the appeal of the assessee on the ground that it was not maintainable. The assessee can file appeal before the ld.CIT(A) only against the

orders passed under specific section mentioned in section 246A of the Act. Since the letter of the ITO is not an order it is not appealable order. The assessee had filed appeal against the letter of the ITO(TDS), Pune.

Findings & Analysis :

4. We have heard both the parties and perused the records. We confronted ld.AR about the fact that assessee had filed appeal before the ld.CIT(A) against the letter of the ITO dated 09.08.2018. The ld.AR has not disputed this fact. The appealable orders before the ld.Commissioner of Income Tax(Appeals) are mentioned in Section 246A of the Act. Letter of an ITO is not an appealable order for the purpose of Section 246A of the Act. Therefore, we are of the opinion that ld.CIT(A) had rightly dismissed the appeal of the assessee as not maintainable. Accordingly, appeal of the assessee is dismissed.

5. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on 13th February, 2024.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 13th Feb, 2024/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.