

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A', NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.878/Del/2023  
(Assessment Year: 2015-16)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.846/Del/2023  
(Assessment Year: 2013-14)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.873/Del/2023  
(Assessment Year: 2014-15)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

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(Assessment Year: 2014-15)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.875/Del/2023  
(Assessment Year: 2014-15)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

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<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.877/Del/2023  
(Assessment Year: 2015-16)

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<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.880/Del/2023  
(Assessment Year: 2015-16)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.881/Del/2023  
(Assessment Year: 2015-16)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.944/Del/2023  
(Assessment Year: 2013-14)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.945/Del/2023  
(Assessment Year: 2013-14)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.946/Del/2023  
(Assessment Year: 2014-15)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.947/Del/2023  
(Assessment Year: 2014-15)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.948/Del/2023  
(Assessment Year: 2014-15)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.949/Del/2023  
(Assessment Year: 2015-16)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.950/Del/2023  
(Assessment Year: 2015-16)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.951/Del/2023  
(Assessment Year: 2015-16)

ATN Infratech Private Limited LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extension, New Delhi. PAN No.AAICA3030D	Vs.	ACIT Circle 1(1), New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by	Shri Tanpreet Koli, Adv.
Revenue by	Shri Kanv Bali, Sr. DR

Date of hearing:	12.02.2024
Date of Pronouncement:	15.02.2024

**ORDER****PER BENCH:**

These appeals have been preferred by the Assessee, challenging the respective orders of Ld.CIT(Appeals), wherein the assessee had challenged the impugned order of CPC(TDS) for the respective quarters for assessment years 2014-15, 2015-16 and 2013-14 respectively. A chart of details of the appeals is provided by Ld. AR and same is reproduced here below:

Appeal No	Assessment Year	Quarter	Form No	Disputed Amount
873/Del/2023	2014-15	1st	24Q	29,810
874/Del/2023	2014-15	4th	24Q	5,000
875/Del/2023	2014-15	3rd	26Q	7,810
876/Del/2023	2014-15	4th	26Q	7,408
877/Del/2023	2015-16	1st	24Q	5,610
878/Del/2023	2015-16	4th	24Q	39,800
879/Del/2023	2015-16	2nd	26Q	49,000
880/Del/2023	2015-16	3rd	26Q	16,020
881/Del/2023	2015-16	4th	26Q	69,770
944/Del/2023	2013-14	4th	24Q	19,560
945/Del/2023	2013-14	4th	26Q	54,880
946/Del/2023	2014-15	1st	24Q	29,810
947/Del/2023	2014-15	1st	26Q	29,810
948/Del/2023	2014-15	2nd	26Q	12,960
949/Del/2023	2015-16	1st	26Q	5,510
950/Del/2023	2015-16	2nd	24Q	140,700
951/Del/2023	2015-16	3rd	24Q	109,050
<b>TOTAL</b>				<b>632,508</b>

2. Heard and perused the record.

3. On hearing Ld. Representatives, it came up that in ITA No.878/Del/2023 the Ld.CIT(A) has passed the order on merits holding that the late fee has been rightly levied u/s 234E r.w.s. 200A of the Income Tax Act, 1961. However, in regard to remaining appeals the Ld.CIT(A) has not gone on merits and has primarily dismissed the appeals, considering them to be barred by limitation.

4. Ld. AR has pointed out that no opportunity of hearing was given with regard to the dismissal of appeal being barred by law.

5. Assessee has raised the following grounds and the grounds are common in remaining. The grounds in ITA No.878/Del/2023 are reproduced below;

1. *“That on facts and in law, the order passed by the Ld. Assessing Officer (AO) and the Ld. Commissioner of Income Tax (Appeals) [CIT(A)], are bad in law and void ab initio.*
2. *That on facts and in law, the CIT(A) has erred in not providing adequate opportunity of being heard, thereby violating the principle of natural justice.*
3. (i) *That on facts and in law, the CIT(A) has erred in holding the appeal belated, in spite of the subject matter being covered squarely by multitude of judgments.*  
  
(ii) *That without prejudice, the CIT(A) has erred in not condoning the genuine circumstances and reasons behind the delay in filing of appeal by the applicant, if any*

4. *That on facts and in law, the AO has erred in levying late fee under section 234E of the Act.*
5. *That the impugned appellate order is arbitrary, illegal, bad in law and in violation of rudimentary principles of contemporary jurisprudence.”*
6. Ld. AR has submitted that under section 200A of the Act, which deals with the manner in which the statement of Tax Deducted at Source (TDS) shall be processed, the Authorities have no power to impose the late fee under section 234E of the Act for the assessment years 2012-2013 to 2015-16, since section 200A(l)(c) of the Act was introduced only with effect from 1-6-2015. Accordingly, any fee under Sec 234E could have been levied only prospectively, for periods beyond 01.06.2015, which is not the case of the case. Accordingly, the levy of fee on the assessee is invalid and thus, deserves to be deleted. It is submitted that no fee under Sec 234E of the Act can be levied before 01.6.2015. In this respect, reliance is placed on the judgment of Hon’ble High Court of Madras in the case True Blue Voice India (P.) Ltd. Vs CCIT, [2024] 158 taxmann.com 67 (Madras). Ld. AR referred to following observations of Hon’ble High Court in this judgment.

*"15. The learned counsel for the respondent advanced his arguments on the aspect of the imposition of late fee by applying section 200A(l)(c) of the Act retrospectively. This Court is not in agreement with the said submissions of the respondent. Since, there was no provision for imposing the*

*late fee under section 234E of the Act while filing and processing the TDS returns under section 200A of the Act, clause (c) to sub-section (1) to section 200A was introduced with effect from 1-7-2012. Therefore, the aforesaid submission made by the learned counsel for the respondent is rejected by this Court.*

*17. In view of the above, it is made clear that the respondent had had imposed the late fee only under section 234E of the Act for the assessment years 2012-2013, 2013-2014, 2015-2015. However, section 200A(l)(c) of the Act was not introduced during the said assessment years. In the absence of any provisions under section 200A of the Act, when they have processed the application for TDS under section 200A, no late fee can be imposed under section 234E. Hence, in such view of the matter, this Court feels that the impugned orders are liable to be set aside.”*

6.1 Further reliance is placed on *Amaravati vs ITO*, High Court of Kerala, [2022] 142 taxmann.com 81 (Kerala); *Atlas Brands (P.) Ltd. Vs CIT*, High Court of Karnataka, [2022] 137 taxmann.com 191 (Karnataka); *Franchise India Brands Ltd. Vs CPC*, ITAT Delhi, [2020] 122 taxmann.com 196 (Delhi - Trib.) *Govt. Girls Sr. Secondary School Vs ACIT*, ITAT Delhi, [2020] 121 taxmann.com 170 (Delhi - Trib.)

7. In the light of aforesaid, we are of the considered view that the Ld.CIT(A) has fallen in error in sustaining the levy of penalty in ITA No.878/Del/2023. Further, in the remaining appeals the Ld.CIT(A) has fallen in error in not giving an opportunity of hearing to the assessee to explain and justify the delay, if any, in challenging the impugned orders.

8. Accordingly, we allow appeal in ITA No.878/Del/2023 and quash the order of Ld.CIT(A). Further, the remaining appeals are restored to the files of Ld.CIT(A) to decide afresh on merits after giving an opportunity of hearing to the assessee with regard to question of limitation and taking into account the law relied by us for allowing the appeal in ITA No.878/Del/2023. In the result, these other appeals are allowed for statistical purposes.

**Order pronounced in the open court on 15.02.2024**

**Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER**

**Sd/-  
(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

Date:- 15.02.2024

*\*Kavita Arora, Sr. PS*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI