

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI**

**BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 1596/DEL/2023	[A.Y. 2013-14 (Q3/26Q)]
ITA No. 1597/DEL/2023	[A.Y. 2015-16 (Q4/24Q)]
ITA No. 1598/DEL/2023	[A.Y. 2015-16 (Q4/26Q)]

ATN Infratech P. Ltd., LG-11, E-57, West Vinod Nagar, Opp. Tarang Apartments, I.P. Extn., New Delhi-110092. PAN- AAICA3030D	<u>Vs</u>	ACIT, Circle-1(1), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	Shri D.C. Gupta, Adv.	
Department represented by	Shri Kanv Bali, Sr. DR	
Date of hearing	05.03.2024	
Date of pronouncement	13.03.2024	

ORDER

PER ANUBHAV SHARMA, JM:

These appeals have been preferred by the assessee, challenging the respective orders of learned Commissioner of Income-tax (Appeals), wherein the

assessee has challenged the impugned orders of CPC(TDS) for the respective quarters for assessment years 2013-14 and 2015-16 respectively, as detailed below:

Appeal No.	Assessment Year	Quarter	Form No.	Disputed Amount
1596/Del/2023	2013-14	3 rd	26Q	24,000
1597/Del/2023	2015-16	4 th	24Q	39,800
1598/Del/2023	2015-16	4 th	26Q	69,770
Total				1,33,570

2. Heard and perused the record.
3. On hearing learned representatives, it comes up that the sole issue, involved for adjudication in these appeals, relating to levy of late fee u/s 234E r.w.s. 200A of the Income Tax Act, 196, is squarely covered in favour of the assessee by the earlier order of the Tribunal dated 15.02.2024, rendered in assessee's own case in ITA no. 878/Del/2023 for A.Y. 2015-16 (4th quarter/Form no. 24Q). Therein, the Tribunal allowed the assessee's appeal by deleting the late fee levied u/s 234E, inter alia, observing as under:

“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(1) (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."

4. Ld. DR has defended the order of ld. Tax authorities on the same premises as emphasized, in hearing of the appeals for earlier quarters, but there being no change in facts and circumstances in the respective assessment period in question,

following earlier order of the Tribunal in assessee's own case (supra) in which one of us was also in quorum, the impugned order of learned CIT(A) is set aside and the late fee levied u/s 234E r.w.s. 200A of the Act for the respective quarters in question is deleted. **Consequently, appeals of the assessee are allowed.**

Order pronounced in open court on 13.03.2024.

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

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

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**