

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.1772/M/2023
Assessment Year: 2015-16**

M/s. Halo Technologies and Training Pvt. Ltd., B-803, Vishwamitra, Saptarshi Park, Off L.B.S Marg, Maharashtra- 400 080 PAN: MUMH08533A	Vs.	Assistant Commissioner of Income Tax-TDS(CPC), Aayakar Bhavan, Sector-3, Vaishali, Ghaziabad, Uttar Pradesh-201010
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Neha Patel, A.R.
Revenue by : Shri P.D. Chougule, [Addl. CIT] Sr.DR.

Date of Hearing : 31 . 07 . 2024
Date of Pronouncement : 31 . 07 . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 10.03.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2015-16.

2. In this case, the Assessee for the A.Y. 2014-15 has filed its regular TDS statement pertaining to quarter-1 on 06.08.2014, which was considered by the CPC/Assessing Officer (AO) vide intimation/order dated 18.12.2016, whereby the late fee to the tune of Rs.4,400/- u/s 234E of the Act has been levied for the delay in filing of the TDS return. The Assessee, being aggrieved, challenged the said order dated 18.12.2016 before the Ld. Commissioner by filing its appeal on 05.07.2019 with a delay of 900 days but in column No.14 of form No.35 replied to the question "whether there is delay in filing appeal" as "No" and therefore considering the delay in filing of the appeal, the Ld. Commissioner dismissed the appeal of the Assessee by not condoning the delay. The Assessee, being aggrieved, is in appeal before us.

3. We observe that vide order dated 24.11.2022 for the A.Y. 2014-15 passed by the Ld. Commissioner (Appeals)/NFAC in Assessee's own case, wherein the delay in filing the appeal against the same levy of late fee u/s 234E of the Act was 1807 days, which was condoned by the Ld. Commissioner (Appeals) on similar facts and circumstances by observing "*that taking an adverse view solely on the reason of prolonged delay, will deny the Assessee of proper justice based on the merits of the case. Hence, taking a liberal view in the matter, the Ld. Commissioner*

condoned the delay in filing the appeal and consequently admitted the same for adjudication.....

..... The delay in filing the TDS statement was prior to 01.06.2015 and therefore as per amended provision of section 200A of the Act by which the enabling provisions in the Act have been introduced for levy of late fee u/s 234E of the Act and therefore only for the TDS quarterly returns for the periods after 01.06.2015 the late fee u/s 234E of the Act can be levied. Admittedly, the period in question which pertains to quarter-1 (i.e. 01.01.2014-31.03.2014) of the F.Y. 2013-14 and the same is prior to 01.06.2015 hence no fee u/s 234E of the Act could be levied while processing the statement filed u/s 200A of the Act. The levy of late fee of Rs.7000/- u/s 234E of the Act is deleted”.

4. Considering the aforesaid decision of the Ld. Commissioner in the Assessee’s own case for the A.Y. 2014-15 as elaborated above, we are inclined to delete the amount of Rs.4,400/- levied by the AO u/s 234E of the Act, as the TDS statement pertains to quarter-1 which was admittedly filed on 06.08.2014 i.e. prior to 01.06.2015, when admittedly no enabling provisions for levy of late fee, were in existence hence the late fee of Rs.4,400/- stands deleted.

5. In the result, the appeal filed by the Assessee stands allowed.

Order pronounced in the open court on 31.07.2024.

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.