

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

**ITA No.2764/Del/2023
[Assessment Year: 2022-23]**

OSB Agencies Private Limited 14/147, Geeta Colony, Delhi-110031	Vs	DCIT-CPC-TDS, Aayakar Bhawan, Sector-3, Vaishali, Ghaziabad, U.P.
PAN-AAACO0350J		
Assessee		Revenue

Assessee by	Ms. Gunjan Jain, CA
Revenue by	Sh. Ram Dhan Meena, DR

Date of Hearing	08.10.2024
Date of Pronouncement	16.10.2024

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against the order dated 10.08.2023 of the National Faceless Appeal Centre, Delhi, dismissing the appeal of the assessee relating to intimation/order dated 29.07.2022 u/s 200A of the Act imposing late filing of fee of Rs.16,150/- u/s 234E of the Act for the second quarter of the Financial Year 2022-23.

2. In the above intimation, late filing fee u/s 234E of the Act amounting to Rs.16,150/- was levied by reckoning the date of filing of regular statement for quarter-2 in respect of TDS/TCS, Form No.26Q, on 25.07.2022 for which the due date was 31.10.2021

Against the said order, the assessee filed an appeal before the Ld.

CIT(A), who dismissed the appeal by observing as under:-

“I have considered the submission of the appellant, perused the material placed on record and carefully gone through the order of the Assessing Officer. The contentions raised by the appellant have been carefully examined with reference the factual matrix of the case as also the relevant provisions of the reference the factual matrix of the case as also the relevant provisions of the Act and the legal position as applicable to year under reference. The only issue involved in this appeal is levying late filing fees u/s 234E of Rs. 16,150/-for 26Q of Quarter-2 for F.Y. 2021-22 is decided as under:

The appellant filed TDS return, 26Q for Quarter 2 of F.Y. 2021-22 belatedly. The enabling provision i.e. sub clause (c) of sub-section (1) of section 200A is inserted in the Income Tax w.e.f. 1.6.2015, hence, the A.O. is empowered to charge the late fee u/s. 234E from 01-06-2015 i.e. from F.Y. 2015-16.

In the instant case, the TDS return was filed after 01.06.2015 and processed after 01.06.2015. The late fee is related to the A.Y. 2022-23. Therefore, the AO is correct in his action in levying late fee u/s. 234E of Rs. 16,150/-. The AO's action is upheld. The ground of appeal of the appellant is dismissed .”

3. Against the above order, the assessee is in appeal before us.
4. The ld. Counsel for the assessee filed a written submission.

The relevant details of which are reproduced as under:-

3. *OSB Agencies Pvt. Ltd. is engaged in the business of trading in diagnostic equipment's operating from its address at 14/147, Geeta Colony, Delhi-110031.*

4. *The appellate was required to file TDS return for the 2nd Quarter of the F.Y relevant to A. Y 2022-23 which was duly complied by the assessee. The assessee filed the TDS return as on 22.10.2021 which is before the due date i.e 31.10.2021.*

5. *The assessee received the Acknowledgment vide acknowledgement number 716229580221021 of the TDS return filed via e-mail dt. 22.10.2021. The copy of the same is enclosed on page 17 for your reference. However, the status of filed TDS Return was not being reflected on the Traces portal.*

6. *The assessee made various representation for the same before the department on various dates through application for the correction of the said error vide emails dt. 14.06.2022, 30.06.2022 & 19.07.2022, copy of the same is enclosed on page 18 to 20 for reference of this Hon. Court.*

7. *The assessee succumbed to the pressure of the clients for the issuance of TDS certificate for the relevant A.Y, re-filed the TDS return for the 2nd Quarter as on 26.07.2022.*

8. *The CPC-TDS vide its intimation dt. 29.07.2022 imposed late filing fee of Rs.16,150/- u/s 234E of the Act issuing intimation letter u/s 200A/206CB of the Act followed by the notice of demand u/s 156 of the Act.*

XXXXXXXX

12. *The primary contention of the assessee is that the penalty u/s 234E shall not be imposed on the assessee as -*

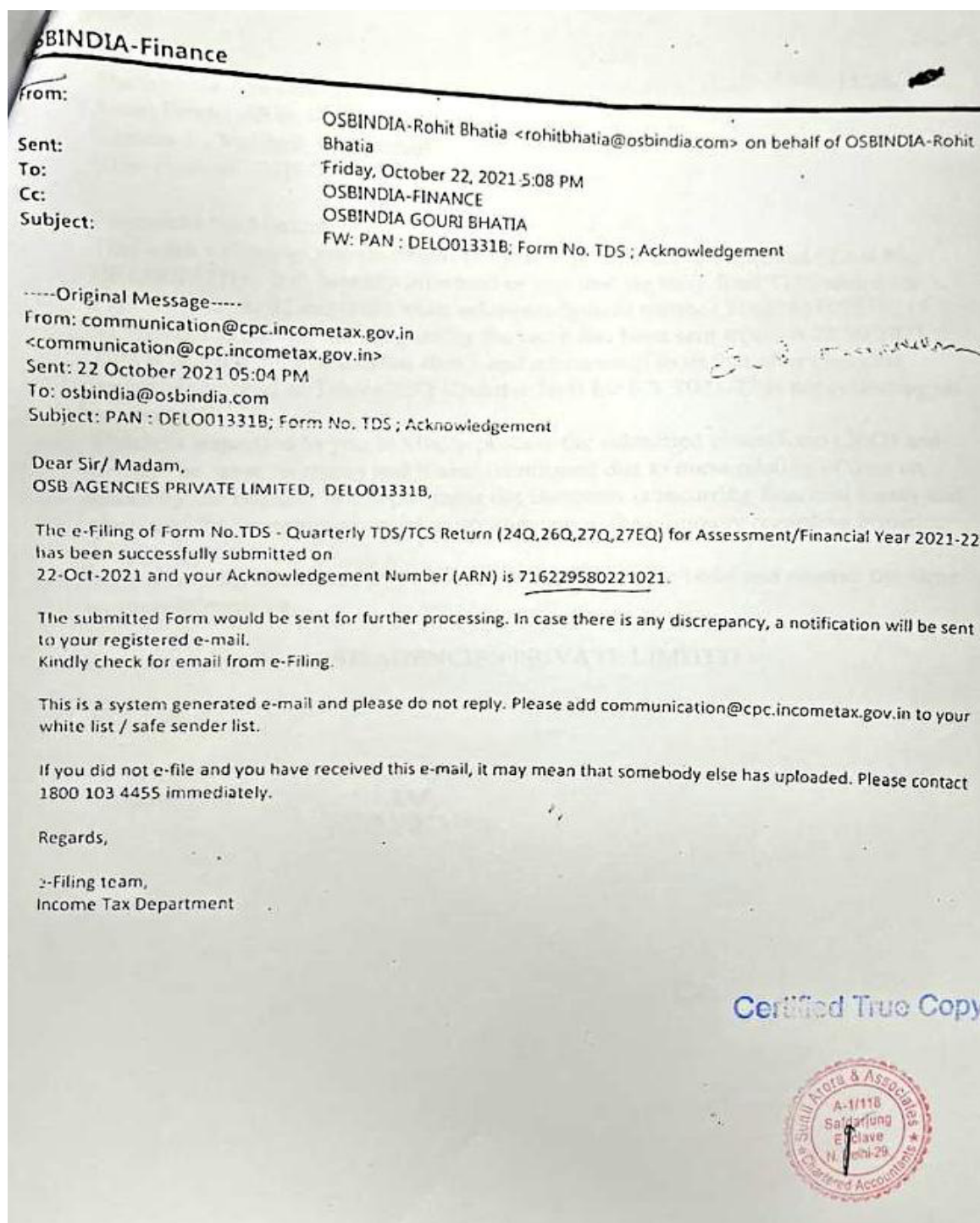
a. The assessee has duly complied with the provisions of the Act and filed the TDS Return much before the due date of the same which is tabulated in the aforesaid table.

b. It is due to technical error of the portal that the return was not reflected on the portal even after the receipt of acknowledgment of the TDS Return filing by the assessee. As a result of the same, the assessee had to file the same again.

c. The assessee should not be penalised for the technical errors in the departmental websites.

5. We have considered the rival submission and perused the materials available on record. In this case, it is an undisputed fact that the assessee had filed the relevant return on 22.10.2021 within

the due time for which the relevant acknowledgment from CPC as appearing on page no.17 of the paper book is reproduced as under:-



6. In view of this fact, which was not contradicted by the Id. DR, late filing fee u/s 234E of the Act amounting to Rs.16,150/- is

clearly not leviable in the case of the assessee. The subsequent filing of the said return by the assessee on 26.07.2022 was due to technical glitch on the portal of the Department and to facilitate its clients for issuance of TDS Certificate for filing their return of income. Therefore, this cannot be a ground for ignoring the return filed on 22.10.2021 and levy late filing fee of Rs.16,150/- in respect of the return filed on 26.07.2022. Therefore, considering the entire facts in perspective, the late filing fee of Rs.16,150/- is not justified and the same is deleted. Grounds of appeal filed by the assessee are allowed.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 16th October, 2024.

Sd/-
[KUL BHARAT]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated 16.10.2024.

Shekhar

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,