

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER
AND SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2066 to 2069/PUN/2024

निर्धारण वर्ष / Assessment Years : 2013-14 & 2014-15

Vidyamandir Madhyamic Prashala, A/P. Kankavali, Vidanagari, Kankavali S.O., Sindhudurg, Maharashtra-416602 PAN : KLPV00980A	Vs.	Income Tax Officer, Kolhapur
Appellant		Respondent

Assessee by	:	None
Revenue by	:	Shri Arvind Desai
Date of hearing	:	07.11.2024
Date of pronouncement	:	12.11.2024

आदेश / ORDER

PER BENCH :

These four appeals filed by the assessee pertaining to the Assessment Years (in short "AYs") 2013-14 & 2014-15 are directed against the separate orders passed u/s.250 of the Income Tax Act, 1961 [in short "the Act"] by the Id.National Faceless Appeal Centre, Delhi [in short "Id.NFAC"] dated 25.07.2024 arising out of the Intimation orders passed u/s.200A/206CB of the Act, dated 21.01.2014 respectively.

2. Identical grounds have been raised by assessee in all these appeals. We therefore proceed to dispose of these appeals by this consolidated order for the sake of convenience.

3. In this batch of appeals, assessee has raised following grounds of appeal :

“1. On the facts and circumstances of the case and in law the CIT(A), NFAC erred in confirming the action of the Assistant/Deputy Commissioner of Income Tax, Central Processing Cell- TDS, Pune (here in after referred to as the DCIT) of levying Fee under section 234E for delay in submission of TDS return within the stipulated time.

The appellant submits as under without prejudice to each other:

a. The provisions of section 200A under which the TDS return filed by the appellant is processed do not envisage levying of such Fees under section 234E meaning thereby that the DCIT has no power to levy such fees in the intimation issued under section 200A.

b. The fact that the amendment carried out by the Finance Act, 2015 having prospectively incorporated such enabling provision with effect from 01.06.2015 it is clear that the DCIT did not have such power relating to the period prior to 01.06.2015.

The appellant prays that the DCIT be directed to delete the fees levied by him under section 234E.

The appellant craves leave to add to, amend, alter, delete or modify all or any of the above ground of appeal or raise a new ground of appeal before or at the time of hearing.”

4. From perusal of the grounds filed in these appeals, only one issue needs to be adjudicated as to whether the Revenue authorities were justified in levying the late fee u/s.234E of the Act in the statement processed u/s.200A of the Act prior to 01.06.2015.

5. Brief facts common to these appeals are that TDS returns for Quarter-4 and Quarter-3 for Financial Year

2012-13 and Quarter-2 and Quarter-1 for Financial year 2013-14 were filed on 31.07.2013, 26.07.2013, 15.01.2014 and 07.09.2013 respectively. The same were processed by Central Processing Cell (in short "CPC") on 21.01.2014, 21.01.2014, 15.03.2014, 01.12.2013 after levying fee u/s.234E of the Act at Rs.15,400/-, Rs.33,600/-, Rs.18,400/- and Rs.10,800/- respectively. Aggrieved assessee preferred appeal(s) before Ld. CIT(A)/NFAC but failed to succeed. Now the assessee is in appeal(s) before the Tribunal.

6. When the matter was called on, none appeared on behalf of the assessee despite due service of notice of hearing. We therefore proceed to dispose of these appeals *ex parte qua* the assessee after hearing the ld. Departmental Representative.

7. Ld. Departmental Representative supported the orders passed by the lower authorities and vehemently argued for confirming the late fee levied u/s.234E of the Act.

8. We have heard the ld. Departmental Representative and perused the records placed before us. The solitary issue in these four appeals is against the levy of fee u/s.234E of the Act by CPC for delay in filing the TDS quarterly returns and Ld. CIT(A)/NFAC confirming such levy of fee u/s.234E at Rs.15,400/-, Rs.33,600/-, Rs.18,400/- and Rs.10,800/- for Quarter-4 & Quarter-3 for Financial Year 2012-13 and Quarter-2 and Quarter-1 for Financial

Year 2013-14. Quarterly returns were filed after the due date.

9. We observe that the issue of levy of fee u/s.234E is no more *res integra* by virtue of several decisions rendered by this Tribunal on this very issue. The assessment years involved in these 4 appeals are 2013-14 & 2014-15, which shows that the fee u/s.234E has been imposed for the delay in furnishing the statements for quarters, in the returns processed u/s.200A of the Act prior to 01.06.2015. As regards the fate of fees levied u/s.234E of the Act for the returns filed and processed before 01.06.2015, we find the Coordinate Benches of this Tribunal after considering the judicial pronouncements have been taking a consistent view that the amendment brought in Finance Act, 2015 w.e.f. 01.06.2015 under Section 200A (clause (c)] of the Act is prospective in nature thereby empowering the Revenue authorities to charge fee u/s.234E of the Act only after 01.06.2015. In that view of the matter, Revenue authorities are empowered to impose such late fee u/s.234E only for the default committed after 01.06.2015 and not prior to that. The Hon'ble Kerala High Court in *Olari Little Flower Kuries Pvt. Ltd. Vs. Union of India and others (2022) 440 ITR 26 (Kerala)* has affirmed the non-imposition of fee for the period prior to 01.06.2015. Similar view has been taken in *Jiji Varghese VS. ITO(TDS) & Ors. (2022) 443 ITR 267 (Ker)* holding that no fee u/s.234E can be imposed for the periods of the respective A.Ys. prior to 1st June, 2015. Similar view was also taken by this Tribunal in the case of *Dadasaheb*

Vitthalrao Urhe Vs. ITO (TDS), Pune in ITA Nos.1286 to 1309/PUN/2023, dated 29.02.2024. Thus, it is seen that the issue raised in these appeals is covered in favour of the assessee. Following the precedent, we overturn the impugned orders on this sole issue and allow the effective grounds of appeal raised by the assessee in all these appeals.

10. In the result, all the appeals filed by the assessee are allowed.

Order pronounced on this 12th day of November, 2024.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 12th November, 2024.
Satish

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “B” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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