

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 No.1941/PUN/2024

निर्धारण वर्ष / Assessment Year : 2013-14

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

|                       |   |                   |
|-----------------------|---|-------------------|
| Assessee by           | : | None              |
| Revenue by            | : | Shri Arvind Desai |
| Date of hearing       | : | 04.11.2024        |
| Date of pronouncement | : | 13.11.2024        |

**आदेश / ORDER**

**PER DR. MANISH BORAD, ACCOUNTANT MEMBER :**

This appeal filed by the assessee pertaining to the Assessment Years (in short "AY") 2013-14 is directed against the order passed u/s.250 of the Income Tax Act, 1961 [in short "the Act"] by the ld.National Faceless Appeal Centre, Delhi [in short "ld.NFAC"] dated 25.07.2024 arising out of the Intimation order passed u/s.200A/206CB of the Act, dated 21.01.2014.

2. In this appeal, 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.”

3. From perusal of the above grounds, 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.

4. Succinctly, the facts of the case are that TDS return for Quarter-2 for Financial Year 2012-13 was filed on 15.01.2013. The same was processed by Central Processing Cell (in short “CPC”) on 21.01.2014 after levying fee u/s.234E of the Act at Rs.18,400/-. Aggrieved assessee preferred appeal before Ld. CIT(A)/NFAC but failed to succeed. Now the assessee is in appeal before the Tribunal.

5. When the matter was called for, none appeared on behalf of the assessee despite due service of notice of

hearing. We therefore proceed to dispose of the appeal *ex parte qua* the assessee after hearing the ld. Departmental Representative.

6. 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.

7. We have heard the ld. Departmental Representative and perused the record placed before us. The solitary issue in the extant appeal is against the levy of fee u/s.234E of the Act by CPC for delay in filing the TDS quarterly return and Ld. CIT(A)/NFAC confirming such levy of fee u/s.234E at Rs.18,400/- for Financial Year 2012-13 was filed after the due date.

8. 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 year involved in the present appeal is 2013-14 which show that the fee u/s.234E has been imposed for the delay in furnishing the statement for Quarter-2, in the return processed u/s.200A of the Act dated 21.01.2014, i.e., 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 1<sup>st</sup> 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 the present appeal is covered in favour of the assessee. Respectfully following the judicial precedent, we overturn the impugned order on this sole issue and delete the fees of Rs.18,400/- levied u/s.234E of the Act. The effective grounds of appeal raised by the assessee on merit are allowed.

9. In the result, the appeal of the assessee is allowed.

Order pronounced on this 13<sup>th</sup> day of November, 2024.

Sd/-  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

Sd/-  
**(MANISH BORAD)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 13<sup>th</sup> 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.