



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND  
MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA Nos.454 & 455/CTK/2024**

Assessment Year : 2014-15

Income Tax officer (TDS), Cuttack	Vs.	Maa Tarini Transport Pvt Ltd., Bhadrasahi, Barbil, Keonjhar
PAN/GIR No.AAFCM 0416 L		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : None

Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 07/01/2025**  
**Date of Pronouncement : 07/01/2025**

**ORDER**

**Per Bench**

These two appeals filed by the revenue against the separate orders of the Id CIT(A), NFAC, Delhi dated 10.9.2024 in Appeal No.CIT(A),Cuttack/10412/2018-19 & CIT(A),Cuttack/10413/2018-19 for the assessment year 2014-15 deleting the levy of fees u/s.234E of the Act.

2. Shri S.C.Mohanty, Sr. DR appeared for the revenue. None appeared from the side of the assessee. As the issue can be decided in the absence of the assessee, we proceed to dispose of the appeals of the revenue qua the respondent assessee on the basis of materials available on record.

3. The only issue in both the appeals is against the deletion of charging of late fees of Rs.42,000/- and Rs.60,200/- under section 234E of the Act.

4. It was submitted by Id Sr DR that section 234E of the Act provides for payment of fee if the assessee fails to deliver the statement as prescribed in Section 200(3) of the Act. Therefore, the Assessing Officer has every authority to levy fee either by a separate order or while processing the statement under Section 200A of the Act. Ld Sr DR produced a decision of Hon'ble Gujarat High Court in the case of Rajesh Kourani vs Union of India (2017) 83 taxmann.com 137 (Guj), wherein, it is held that Section 234E is a charging provision creating a charge for levying fee for certain defaults in filing statements, and fee prescribed under section 234E could be levied even without a regulatory provision being found in section 200A for computation of fee. Ld Sr DR also produced a decision of Hon'ble Madras High Court in the case of Conceria International Pvt Ltd. Vs ITO, 464 ITR 92 (Mad), wherein levy of late fee qua delay in filling of TDS return pertaining to the period prior to 01-06-2015 was upheld.

6. We have considered the submissions of Id Sr DR. We find that the Id CIT(A) while deleting the levy of fees has observed as under:

"The Finance Act 2015, with effect from 1.6.2015, amended Section 200A sub-section(1) by substituting clauses (c) to (e) to (f) thereby enabling charging of fee under section 234E. Therefore, prior to 1.6.2015, there was no enabling provision in section 200A of the Act for making adjustment in respect of the statement filed by the appellant with regard to tax deducted at source by levying fee under

section 234E. Thus, while processing statement u/s.200A, the AO could not have made any adjustment by levying fee u/s.234E prior to 1.6.2015. This opinion has also been upheld by –

- (i) ITAT E Bench Chennai in ITA No.1019,1020 and 1021/MDS/2015 in the case of Smt. G.Indhirani
- (ii) (ii) ITAT Amritsar bench in the case of Sibia Healthcare Pvt Ltd. Vs DCIT order dated 9.6.2015
- (iii) Cuttack Bench in TB & ID Hospital in ITA No.323/CTK/2018 order dated 27.8.2018.

7. We find that the issue is squarely covered in favour of the assessee by the decision of the Coordinate Bench in the case of TB & ID Hospital in ITA No.323/CTK/2018 order dated 27.8.2018 and 2011-12 and there is no change in facts and law. The findings recorded by the Id.CIT(A) in this regard have also not been dislodged by the revenue. We also find that there are conflicting views rendered by different High Courts in respect of charging of late fee u/s.234E of the Act. Ld Sr DR could not place any decision of the Hon'ble Jurisdictional High Court on this issue. Hence, we concur with the findings of the Id CIT(A) in deleting the charging of late fee u/s.234E and uphold the same. Consequently, we dismiss the appeals filed by the revenue.

7. In the result, appeals of the revenue stand dismissed.

Order dictated and pronounced in the open court on 07/01/2025.

SD/-  
**(Manish Agarwal)**  
**ACCOUNTANT MEMBER**

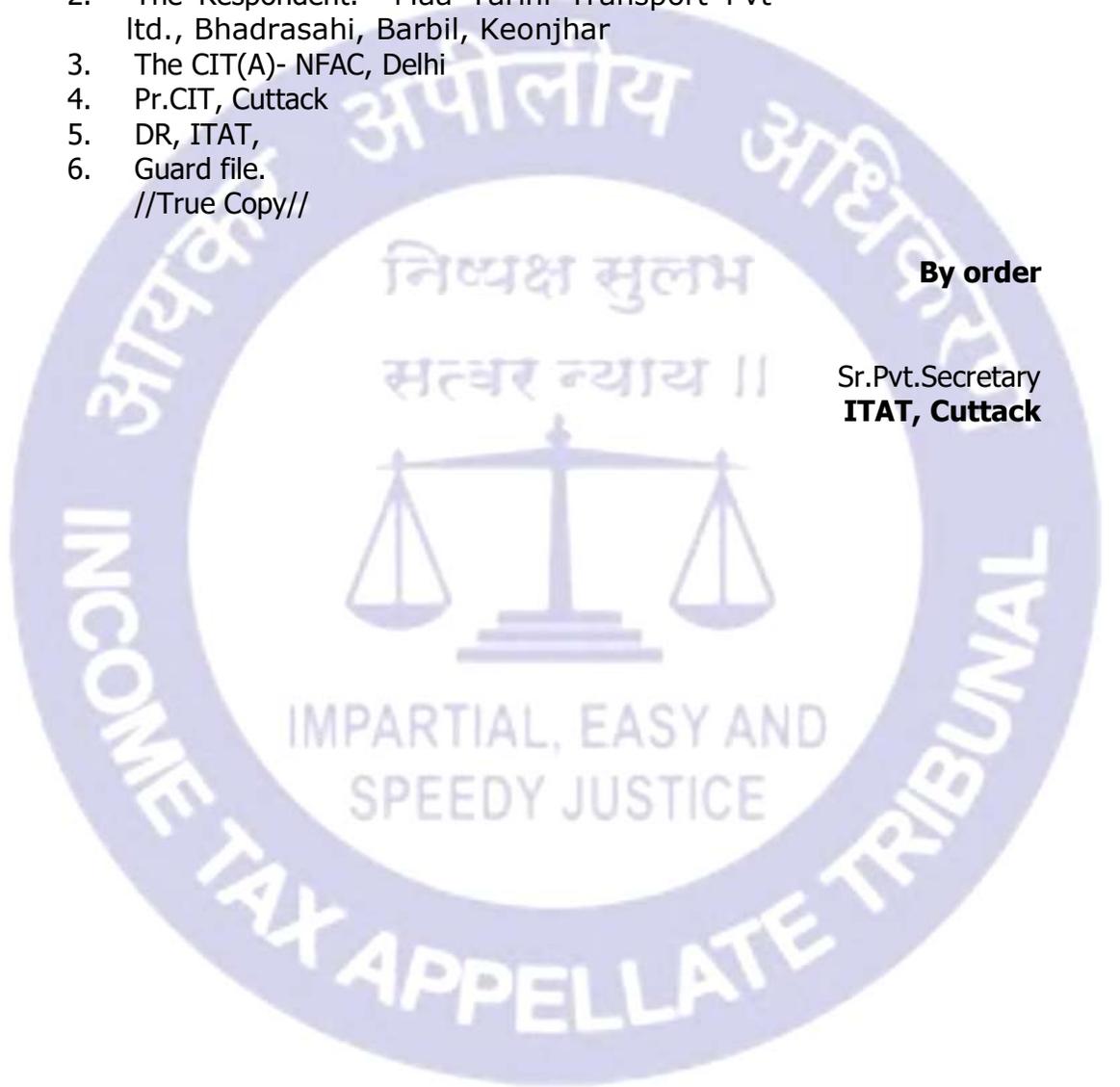
SD/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 07/01/2025

B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Income Tax officer (TDS),  
Cuttack
2. The Respondent: Maa Tarini Transport Pvt  
Ltd., Bhadrasahi, Barbil, Keonjhar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Cuttack
5. DR, ITAT,
6. Guard file.  
//True Copy//



**By order**

**Sr.Pvt.Secretary  
ITAT, Cuttack**