

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

S.M.C. MATTER

ITA no.120/Nag./2024
(Assessment Year : 2014-15)

Ashwin Suresh Chandak
234-A, Laxmi Nagar, Nagpur 440 010
PAN – AEZPC5260P

..... Appellant

v/s

Income Tax Officer
Ward-51(1), Nagpur

..... Respondent

Assessee by : Smt. Veena Agrawal
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 04/12/2024

Date of Order – 08/01/2025

ORDER

Aforesaid appeal filed by the assessee challenging the impugned order dated 02/01/2024, passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In its appeal, the assessee has raised following grounds:-

"1. Whether the Hon'ble CIT(A) is justified in affirming the levy of late filing penalty u/s 234E of the Income Tax Act, for the relevant year consideration.

2. Whether the Hon'ble CIT(A) is justified in affirming an order in the contravention of the trite law settled by judicial precedents.

3. Whether the Hon'ble CIT(A) is justified in affirming the penalty u/s 220 of the Income Act.

4. The appellant craves leave to add, alter modify and withdraw any grounds before or during the course of appellate proceedings."

3. The core issue that I need to adjudicate here is, whether or not the learned CIT(A) was justified in confirming the order passed by the Assessing Officer levying late fee under section 234E of the Income Tax Act, 1961 ("*the Act*").

4. The short fact of the case are, the assessee failed to deliver various TDS statements within the time limit specified in sub-section (3) of section 200 of the Act. Consequently, the Assessing Officer, while processing the statement, levied late filing fees under section 234E of the Act. Aggrieved thereby, the assessee carried the matter unsuccessfully before the first appellate authority.

5. The learned CIT(A) dealt with the issue in detail vide Para-6 to 14. While concluding, the learned CIT(A) confirmed the order passed by the Assessing Officer levying late fee under section 234E of the Act. The relevant Para-15 and 16, containing observations of the learned CIT(A) in confirming the assessment order are as under:-

"15. The above discussion immediately makes it clear that with effect from 1.7.2012, the levy of late fee u/s 234E is mandatory if any TDS statement is not filed in time.

16. In the instant appeal, orders have been passed u/s 200A read with section 234E in accordance therewith. Thus, there is no illegality in the said orders and the orders cannot be termed bad in law. The levy of late fee is mandatory and not in the nature of any penalty and any possible contentions about whether the delay in filing the regular statement was intentional or not or any plea regarding any extenuating circumstance are also not relevant criteria in the levy of late fee u/s 200A read with section 234E.

In view of the foregoing discussion, the Grounds of Appeal Nos. 1 to 3 are dismissed."

6. I have heard the rival contentions and perused the material placed on records and considered the facts in the light of settled position of law. In the context of levy of late fee in default, a person liable to deduct any sum under the provisions of chapter XVII of the Act, and is under obligation to furnish a statement under section 200(3) of the Act within the due date prescribed therein and in the event of default, such person is exposed to the provisions of section 234E of the Act. Although the levy of fees under section 234E for delay in furnishing statement has been brought into statute w.e.f. 1st July, 2012, the enabling provision of section 200A(1)(c) authorising such levy came into force w.e.f. 1st June, 2015 by Finance Act, 2015. In the present case, when the assessee filed the TDS statements beyond the due date, such levy of late fee by the Assessing Officer is consequential and mandatory. In my considered opinion, the learned CIT(A) was indeed justified in upholding the order passed by the Assessing Officer levying late fee, hence, I decline to delete the levy of late fee. Consequently, the impugned order passed by the learned CIT(A) is hereby upheld by dismissing the grounds raised by the assessee.

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

Order pronounced in the open Court on 08/01/2025

NAGPUR, DATED: 08/01/2025

**Sd/-
V. DURGA RAO
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur