

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI KESHAV DUBEY, JM**

**ITA Nos. 589 & 590/Coch/2023
Assessment Year: 2013-14**

Parambathkandi Mohammed Appellant
Rafeek Mohamed
Guide College for Advanced Studies
Aysha Commercial Squaqr
Chembara Road, Tirur 676101
[PAN: AIQPR8787B]

vs.

The Income Tax Officer Respondent
Ward - 1 & TPS, Tirur

Appellant by: ----- None -----
Respondent by: Smt. Leena Lal, Sr. D.R.

Date of Hearing: 30.01.2025
Date of Pronouncement: 19.02.2025

ORDER

Per: Inturi Rama Rao, AM

These appeals filed by the assessee are directed against the orders of the National Faceless Appeal Centre, Delhi [CIT(A)], dated 13.06.2023 for Assessment Year (AY) 2013-14.

2. Since identical issues are involved in these appeals, they are heard together and disposed of by this common order. For the sake of convenience and clarity the facts relevant to the appeal bearing ITA

No. 589/Coch/2023 for AY 2913-14 are stated herein. The discussions and findings are equally applicable to the other appeal also.

3. Brief facts of the case are that the appellant is an individual. The appellant during the financial year relevant to AY 2013-14 filed the TDS statements belatedly. The CPC had processed the said TDS return for quarter 3 of the Financial Year 2012-13 and levied late fee u/s. 234E of the Income Tax Act, 1961 (the Act).

4. Being aggrieved by the above intimation, an appeal was filed before the CIT(A) contending that in the absence of enabling provisions u/s. 200A or the Act late fee cannot be levied placing reliance on the decision of the Hon'ble Karnataka High Court in the case of Shri Fatheraj Singhvi vs. Union of India. However, the CIT(A), placing reliance on the decisions of the Hon'ble Rajasthan High Court in the case of Dundlod Shikshan Sansthan vs. Union of India and Hon'ble Kerala High Court in the case of Sree Narayana Guru Smaraka Sangam Upper Primary School vs. Union of India [2017] 77 taxmann.com 244 confirmed the levy of late fees.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. When the appeal was called nobody appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceeded to dispose of the appeal after hearing the learned Sr. DR.

7. The solitary issue in the present appeal is whether the CIT(A) was justified in confirming the action of the CPC in levying late fee u/s. 234E of the Act. Admittedly, the quarterly statement of TDS was filed belatedly. No doubt, the late fee was levied for the period prior to the amendment to section 200A of the Act, which came into effect on 01.06.2015 enabling levy of late fee by the CPC. No doubt, it is true that the Hon'ble Karnataka High Court in the case of Shri Fatheraj Singhvi (supra) took a view that in the absence of charging provision, late fee u/s. 234E of the Act cannot be levied for the period prior to 01.06.2015, However, the Hon'ble Jurisdictional High Court in the case Sree Narayana Guru Smaraka Sangam Upper Primary School (supra) and subsequent decision in the case of Alampally Pressure Testing C. (P) Ltd. vs. Union of India [2023] 57 taxmann.com 464 took a view that late fee as envisaged u/s. 234E of the Act can be levied even for the period prior to 2015 by holding that the law on the date when the impugned notices were issued provided for levy of late fee u/s. 234E, which had been inserted by Finance Act, 2012 w.e.f. 01.07.2012. Since the decision of the Hon'ble Jurisdictional High Court is binding on us, respectfully following the decision of the Hon'ble Jurisdictional High Court, we confirm the levy of late u/s. 234E of the Act. Accordingly, we do not find any merit in the appeal filed by the assessee.

8. In the result, the appeals stand dismissed.

Order pronounced in the open court on 19th February, 2025.

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 19th February, 2025

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

Assistant Registrar
ITAT, Cochin