

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT**  
**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND**  
**SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**  
**आयकर अपील सं./ITA No.699/SRT/2024**  
**Assessment Year: (2019-20)**  
**(Physical Hearing)**

Mansi Rinkeshkumar Rathod, 4-A/2, Yogi Krupa Society, New Civil Road, Surat - 395007	<b>Vs.</b>	TDS, CPC, Ayakar Bhawan, Sector – 3, UP – 201010. <b><u>Jurisdiction:</u></b> TDS, Ward – 1, Surat
<b>स्थायी लेखासं./जी आइ आरसं./PAN/GIR No: CIAPR0584A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Shri P. M. Jagasheth, CA
<b>Respondent by</b>	Shri Mukesh Jain, Sr. DR
<b>Date of Hearing</b>	18/03/2025
<b>Date of Pronouncement</b>	02/05/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the appellant emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 25.04.2024 by the learned Commissioner of Income-tax (Appeal), National Faceless Appeal Centre, [in short, 'CIT(A)'] for the Assessment Year (AY) 2019-20.

2. The grounds of appeal raised by the assessee are as under:

*"1. On the facts and circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the learned ACIT, CPC-TDS in issuing intimation u/s 200/206CB of the Income Tax Act, 1961.*

*2. On the facts and circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in*

*confirming the action of the learned ACIT, CPC-TDS in charging interest of Rs.25,512/- on default short payment of TDS.*

*3. On the facts and in the circumstances of the case as well as the law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the learned ACIT, CPC-TDS in charging late fees of Rs.66,166/- u/s 234E on late filing TDS Return.*

*4. On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of the Income Tax (Appeals) has erred in confirming the action of the learned ACIT, CPC-TDS in generating default u/s 200A/206CB of the Income Tax Act, 1961.*

*5. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.*

3. Facts of the case in brief are that the appellant filed the TDS return in 26Q for Quarter-2 of the financial year (FY) 2018-19 on 30.09.2020. The same was processed u/s 200A/206CB of the Act on 05.10.2020 by the ACIT, CPC-TDS raising demand of Rs.1,58,710/- including short payment of Rs.66,616/-, interest on short payment of Rs.25,512/- and late filing fee u/s 234E of the Act of Rs.66,616/-.

4. Aggrieved by the above intimation dated 05.10.2020, assessee filed appeal before the CIT(A) raising similar grounds which have been taken up before the Tribunal. After considering the grounds of appeal, Statement of Facts and the submission of the appellant, the CIT(A) dismissed the appeal by relying on the decision of the ITAT, Delhi Bench in case of GMV Services vs. ACIT (CPC-TDS), Ghaziabad, in ITA No.2329/Del/2017, dated 05.12.2019. In the said decision, reliance was placed on the decision of Hon'ble Kerala High Court in case of Shree Narayanana Guru Smaraka Sangam Upper Primary School vs.

UOI & Ors., WP(C) No.30229 of 2013, dated 13.12.2016 and Rashmikant Kundalia vs. UOI, (2015) 54 taxmann.com 200 (Bombay).

5. Aggrieved by the order of CIT(A), the appellant has filed appeal before the Tribunal. The learned Authorized Representative (Id. AR) of the assessee submitted that interest was charged for short payment and late filing u/s 234E of the Act. He submitted that the delay in filing the return was due to death of the parents of the appellant. He has submitted copies of the death certificates at pages 3 and 4 of the paper book. He also relied on the decision of the ITAT, Ahmedabad in case of Kanta Govind Singh vs. ACIT, in ITA No.127/AHD/2022, dated 17.05.2023.

6. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) supported the orders of lower authorities. He submitted that the fees u/s 234E is mandatory and interest for short payment of TDS and late filing fees have been rightly levied on the assessee. He relied on the decision of the Hon'ble jurisdictional Gujarat High Court in case of Rajesh Kourani vs. UOI, 83 taxmann.com 137 (Gujarat) and submitted that above binding decision has not been considered by the ITAT, Ahmedabad.

7. We have heard both the parties and perused the materials available on record. We have also deliberated upon the decisions relied upon by both sides. All grounds raised by the appellant are inter-connected and hence are decided together. There is no dispute that there was short payment of Rs.66,616/-. The ACIT, CPC has levied interest of Rs.25,512/- u/s 201(A)/206C(7) of the Act on

short payment of Rs.66,616/-. He also levied late filing fees of Rs.66,616/- u/s 234E of the Act. The Id. AR of the assessee has relied on the decision of ITAT, Ahmedabad in case of Kanta Govind Singh (supra), where levy of late filing fees of Rs.1,05,400/- u/s 234E of the Act on account of procedural error in filing TDS Form No.27Q was deleted. In the case, the ITAT has held that there was no lapse on the part of assessee while depositing the TDS amount to the treasury of Government of India. However, the Form 26Q could not be filed within the time. On the other hand, the CIT(A) has relied on decision in case of GMV Services (supra), wherein the fees imposed u/s 234E of the Act was upheld by relying on various decisions of Hon'ble High Courts cited supra. The Id. Sr. DR also relied on the decision of the Hon'ble jurisdictional High Court in case of Rajesh Kourani (supra), where the petition of the appellant was dismissed on similar issue. He submitted that the above binding decision has not been considered by ITAT in case of Kanta Govind Singh (supra). The Hon'ble Gujarat High Court in the above case has elaborately discussed provisions of section 200A of the Act, before and after amendment to the said section w.e.f. 01.06.2015, Rule 31A of the IT Rules and held that section 200A of the Act is a machinery provision providing mechanism for processing a statement of deduction of tax at source and for making adjustment, which are arithmetical or prima facie in nature. With effect from 01.06.2015, this provision specifically provides for computing the fees payable u/s 234E of the Act. Section 234E of the Act is a charging provision creating a charge for levying fee certain default

in filing the statements. Even in absence of section 200A of the Act, with introduction of section 234E, it was always open for revenue to demand and collect the fee for late filing of the statements. The Hon'ble Court dismissed the petition of the assessee. It is thus clear the Hon'ble Court has held that section 234E is a charging provision creating a charge for levying fee for certain defaults in filing statements, and fee prescribed u/s 234E could be levied even without a regulatory provision being found in section 200A for computation of fee. After considering the facts of the case and decision cited supra, we do not find any infirmity in the order of CIT(A). Hence, the grounds raised by the appellant are dismissed and order of the CIT(A) is upheld.

8. In the result, the appeal of the assessee is dismissed.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 02/05/2025.

**Sd/-**  
**(SANJAY GARG)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

Surat  
दिनांक/ Date: 02/05/2025  
SAMANTA

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

**// TRUE COPY //**

By Order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat