

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: 32 & 33/Chny/2025
निर्धारण वर्ष / Assessment Years: 2014-15 & 2015-16

Alfha Coach Builders, SF No.596'3, Andan Kovil East, Pudhur, Covai Road, Karur – 639 002.	vs.	The Income Tax Officer, Ward -1, Karur.
[PAN: AAOFA-8970-D] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri J. Saravanan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri P. Krishna Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 08.05.2025
घोषणा की तारीख/Date of Pronouncement : 15.07.2025

आदेश /ORDER

PER S. R. RAGHUNATHA, AM:

These two appeals by the assessee are filed against the order of the Commissioner of Income Tax, Appeal, National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2014-15 and 2015-16, vide orders dated 13.06.2024. Since, facts are identical and issues are common, for the sake of convenience, these appeals filed by the assessee are being heard together and disposed of by this consolidated order.

2. At the outset, we find that there is a delay of 128 days in appeals filed by the assessee, for which the assessee has filed affidavits stating the reasons for delay, wherein, it is submitted that when the assessee perused the e-filing portal of the Income-Tax department, for the purpose of going under the Direct Tax Vivad Se Vishwas Scheme, 2024, in respect of the above referred appeals, it understood that the said appeals were dismissed by the Ld. CIT(A), NFAC, vide order dated 13.06.2024 and thereafter, took steps to file the instant appeals before the Hon'ble ITAT. Hence, there was a delay in filing the appeals by the assessee. After considering the Affidavits filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeals on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeals and admit these appeals filed by the assessee for adjudication.

3. The assessee has raised similar grounds of appeal for both the assessment years. We will take up ITA No. 32/Chny/2025 for the assessment year 2014-15 as lead case. Grounds of appeal filed in ITA No. 32/Chny/2025 for the assessment year 2014-15 are reproduced as under:-

A. For that the order of the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC) under section 250 of the Income-Tax Act, 1961 (Act) dated 13.06.2024 is erroneous, bad in law, and was passed ignoring the facts and merits of the case.

B. For that the Ld. CIT(A) failed to appreciate that late fee u/s 234E of the Income-Tax Act, 1961 (Act) for a period prior to 01.06.2015 is not leviable, even in the light of the Hon'ble Madras High Court decision in the case of Conceria International (P) Ltd. v. ITO (2023)(157 taxmann.com 335)

C. For that the Ld. CIT(A) ought to have seen that the Hon'ble Madras High Court in the cases of Apparel Marketing and Manufacturing International V. PCIT (W.P.No.4331 of 2024 dated 12.09.2024), Lingeswara Creations v. PCIT (2024)(168 taxmann.com 383), Sri

Rujula International v. PCIT (2024)(167 taxmann.com 367) and True Blue Voice India (P) Ltd. v. CCIT (TDS)(2024)(158 taxmann.com 67) held that late fee cannot be imposed u/s 234E of the Act, while processing the application for TDS under section 200A of the Act.

D. For that the Ld. CIT(A) failed to note that later decision will prevail over earlier decision.

E. For that the Ld. CIT(A) ought to seen that where two views are in existence or possible, one in favour of the assessee and the other against him, the view favourable to the assessee should be taken.

F. For these and other additional grounds that may be adduced before or at the time of hearing, the appellant prays that the appeal be allowed.

4. Brief facts of the case are that the assessee carries on the business job work of building bodies of buses under the name and style of 'Alfha Coach Builders'. The assessee was liable to deduct TDS for payments made by it. Vide order u/s.154 of the Act dated 19.12.2022, Traces(TDS-CPC) levied late filing fee of Rs.36,600/- u/s.200A of the Act r.w.s.234E of the Act for the fourth quarter of financial year 2013-14 for belated filing of quarterly TDS returns. The assessee has challenged late fee levied before first appellate authority. The Id.CIT(A) has after elaborate discussion of case laws and provisions of the Act dismissed the appeal of the assessee by holding as under:

*"5.3 Ground no. 3: In this ground the appellant contends that the AO did not have jurisdiction to raise demand u/s 200A before 01.06.2015. Section 234E of the Act which provides for charging of late fee, is a substantive provision and it was introduced in the Act with effect from 01.07.2012. The levy as prescribed in section 234E of the Act, for default in furnishing statements u/s 200A of the Act is not dependent on section 200A(1)(c), which section only prescribe a recovery mechanism. This view was also upheld by the **Hon'ble High Court of Madras** in its decision in the case of **Conceria International (P.) Ltd. vs Income-tax Officer [2003] 157 taxmann.com 335 (Madras)**. The Hon'ble High Court of Madras relying on the opinion expressed by the **Hon'ble Gujarat High Court in the case of Rajesh Kourani v. UOI [2017] 297 CTR 502** held that section 234E by itself creates a liability and the liability to pay the late fees is not dependent on section 200(A)(1)(c) which only prescribed the recovery mechanism. The Hon'ble Court also held that Section 234E gets attracted the moment there is a failure on the part a person to deliver or cause to be delivered a statement within time prescribed, inter alia,*

*u/s 200(3) of the Act. Sub-section 4 to section 234E also makes it clear that the above provision would be effective from 01.07.2012. The Hon'ble High Court thus held that in view of the above, the submission that the section 234E would not be operable/effective unless and until section 200(A)(1)(c) was introduced, overlooks the fact that section 234E(1) is the substantive provision and Section 234E(3) provides for a self-declaration / payment for the delay in complying with section 200(3) of the Act. Consequently, the substantive question of law raised by the assessee in the case of **Conceria International (P.) Ltd. (supra)**, that whether income tax department was not empowered to levy late fee u/s 234E of the Act prior to 01.06.2015, stood dismissed.*

*As such, relying on the above two decisions of the honourable high courts, this ground of appeal of the appellant is also **dismissed**.*

5. Aggrieved by the learned CIT(A) order, the assessee is in appeal before us.
6. We have heard Id. AR for the assessee and Id.DR. We have perused orders of the authorities below. We find that the issue involved in the present appeals filed by the assessee is on levy of late fee u/s.234E of the Act, for belated filing of quarterly TDS returns beyond prescribed date and this issue is squarely covered by the decision of Hon'ble Jurisdictional Madras High Court in the case of *M/s.Sri Rujula International vs. PCIT (WP Nos. 4307 of 2024, WMP Nos.4619 & 4621 of 2024) dated 12.09.2024* by following the earlier decisions of the Hon'ble High Court in the case of *2023(10) TMI 1141 [M/s.True Blue Voice India Private Limited vs. Chief CIT, TDS [2024] 158 taxmann.com 67 (Madras)* held as under:-

4. In the present case, the respondent had imposed the late fee only under Section 234E of the Act for the assessment years 2012-2013, 2013-2014. However, Section 200A of the Act was not introduced during the said assessment years and it was introduced only with effect from 01.06.2015. Therefore, in the absence of any provisions under Section 200A of the Act, the respondents ought not to have imposed late fee under Section 234E while processing the applications for TDS under Section 200A. Hence, in such view of the matter, this Court is of the opinion that the impugned Demand Intimation Letters are liable to be set aside.

5. Accordingly, the impugned demand Intimation Letters dated 28.03.2019 are set aside and the Writ Petition stands disposed of. No costs.

7. Further, we note that the issue is already covered by the decision of the coordinate bench of the tribunal in the case of Gopuram Enterprises Private Limited vs. ACIT, ITA No.1002-1007/Chny/2024 dated 26.06.2024 by holding as under:-

4. We have heard Id. Counsel for the assessee and Id.DR. We have perused orders of the authorities below. We find that the issue involved in the present appeals filed by the assessee is on levy of late fee under section 234E of the Act, for belated filing of quarterly TDS returns beyond prescribed date and this issue is squarely covered by the decision of Hon'ble Jurisdictional Madras High Court in the case of M/s.True Blue Voice India Private Limited vs. CCIT & Ors (WP Nos. 2700 & 2703 of 2022) dated 09.10.2023 and held as under:-

"10. There is no dispute on the aspect of validity of the Section 234E of the Act. The only issue that has to be decided in the present case is as to whether the late fee can be imposed under Section 234E of the Act, while processing the statement of TDS under Section 200A of the Act for the subject assessment years?"

11. On considering the submissions of both the learned counsel and while reading Section 234E of the Act, it appears that the Department/respondents can impose the late fee for the circumstances mentioned under Section 234E of the Act with effect from 01.07.2012, but not when they process the TDS under Section 200A of the Act. In the Finance Bill, 2015, Section 200A(1)(c) of the Act was introduced, which reads as follows:

"200A. Processing of statements of tax deducted at source.—

(1)

(a).....

(b).....

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;"

12. Further, the objects and reasons for introduction of Section 200A(1)(c) of the Act are as follows:

"Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS)

Under Chapter XVII-B of the Act, a person is required to deduct tax on certain specified payment at the specified rate if the payment exceeds the specified threshold. The person deducting tax ("the deductor") is required to file a quarterly Tax Deduction at Source (TDS) statement containing the details of deduction of tax made during the quarter by the prescribed due date. Similarly, under

Chapter XVII-BB of the Act, a person is required to collect tax on certain specified receipts at the specified rates. The person collecting tax (‘the collector’) also is required to file a quarterly Tax Collection at Source (TCS) statement containing the details of collection of tax made during the quarter by the prescribed due date. In order to provide effective deterrence against delay in furnishing of TDS/TCS statement, the Finance Act, 2012 inserted section 234E in the Act to provide for levy of fee for late furnishing of TDS/TCS statement. The levy of fee under section 234E of the Act has proved to be an effective tool in improving the compliance in respect of timely submission of TDS/TCS statement by the deductor or collector.

Finance (No.2) Act, 2009 inserted section 200A in the Act which provides for processing of TDS statements for determining the amount payable or refundable to the deductor. However, as section 243E was inserted after the insertion of section 200A in the Act, the existing provisions of section 200A of the Act does not provide for determination of fee payable under section 234E of the Act at the time of processing of TDS statements. It is, therefore, proposed to amend the provisions of section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS statement under section 200A of the Act.

Currently, the provisions of sub-section (3) of section 200 of the Act enable the deductor to furnish TDS correction statement and consequently, section 200A of the Act allows processing of the TDS correction statement. However, currently, there does not exist any provision for allowing a collector to file correction statement in respect of TCS statement which has been furnished. It is, therefore, proposed to amend the provisions of section 206C of the Act so as to allow the collector to furnish TCS correction statement.

Currently, there does not exist any provision in the Act to enable processing of the TCS statement filed by the collector as available for processing of TDS statement. As the mechanism of TCS statement is similar to TDS statement, it is proposed to insert a provision in the Act for processing of TCS statements on the line of existing provisions for processing of TDS statement contained in section 200A of the Act. The proposed provision shall also incorporate the mechanism for computation of fee payable under section 234E of the Act.”

13. A reading of the above makes it clear that since no mechanism was available for determination of late fee payable under Section 234E of the Act at the time of processing TDS statements. Thus it was proposed to amend the provisions of Section 200A of the Act, so as to enable the computation of fee payable under Section 234E of the Act at the time of processing of TDS statement under Section 200A of the Act. Thus, the said sub-Section 200A(1)(c) of the Act was came to be inserted with effect from 01.06.2015.

14. Now the dispute is with regard to the assessment years 2012- 13, 2013-14, 2014-15 and the applicability of Section 200A(1)(c) of the Act for relevant assessment years. There is no dispute on the aspect that the TDS statement was filed under Section 200A of the Act and the respondent had also issued the intimation under Section 200A of the Act, which means the respondents have processed the returns under Section 200A of the Act. When the respondent had started to process the returns of the petitioner under Section 200A of the Act, obviously they have to follow the requirements under Section 200A of the Act. Section 200A(1)(c) of the Act was introduced with effect from 01.06.2015. A reading of the objects and reasons of the same makes it clear that since no mechanism was available, Section 200A(1)(c) of the Act was introduced for imposing late fee for the delay in filing statement of TDS. Therefore, from the introduction of the said Sub-Section it is clear that prior to the same, though Section 234E of the Act was introduced with effect from 01.07.2012, the Authorities were not empowered to impose the late fee while processing the statement of TDS under Section 200A of the Act.

15. The learned counsel for the respondent advanced his arguments on the aspect of the imposition of late fee by applying Section 200A(1)(c) of the Act retrospectively. This Court is not in agreement with the said submissions of the respondent. Since, there was no provision for imposing the late fee under Section 234E of the Act while filing and processing the TDS returns under Section 200A of the Act, clause (c) to Sub-Section (1) to Section 200A was introduced with effect from 01.07.2012. Therefore, the aforesaid submission made by the learned counsel for the respondent is rejected by this Court.

16. Further it was stated by the respondent that they have no power to waive the late fee and only the Commissioner of Income Tax is empowered to pass the revised order by proper application of provision of Section 264C of the Act.

17. In view of the above, it is made clear that the respondent had had imposed the late fee only under Section 234E of the Act

for the assessment years 2012-2013, 2013-2014, 2015-2015. However, Section 200A(1)(c) of the Act was not introduced during the said assessment years. In the absence of any provisions under Section 200A of the Act, when they have processed the application for TDS under Section 200A, no late fee can be imposed under Section 234E. Hence, in such view of the matter, this Court feels that the impugned orders are liable to be set aside”

The Co-ordinate Bench of the Tribunal also in the case of M/s.M.F.Textiles Pvt.Ltd. Vs. ACIT in ITA Nos. 578 & 579/Chny/2021 dated 24.02.2022 had considered an identical issue in light of provisions of section 234E of the Act and also amendment to section 200A by Finance Act, 2015 w.e.f. 01.06.2015 and held that in absence of enabling provision under section 200A of the Act, the Assessing Officer cannot levy late fee under section 234E of the Act for belated filing of quarterly TDS return for period prior to 01.06.2015.

6. *In the present appeals, on perusal of the facts, we find that the assessment years involved are prior to 01.06.2015. Therefore, we are of the considered view that the late fee charged by the Assessing Officer under section 234E of the Act, while processing quarterly TDS return under section 200A of the Act, is without any authority and invalid. Hence, by respectfully following the decisions of the Hon'ble Jurisdictional Madras High Court in the case of M/s. True Blue Voice India Private Limited (supra) and Co-ordinate Bench in the case of M/s.M.F.Textiles Pvt.Ltd (supra), we are of the considered view that the Assessing Officer cannot levy late fee while processing of TDS return under section 200A of the Act upto the financial year 2014-15. Since, late fee charged in the present case pertaining to the financial years 2012-2013 and 2013-14, we direct the Assessing Officer to delete the late fee charged under section 234E of the Act in the intimation issued under section 200A of the Act for the processing of quarterly TDS return filed by the assessee.*

7. *In the result, all six these appeals filed by the assessee are allowed.*

8. In the present appeals, on perusal of the facts, we find that the assessment years involved are prior to 01.06.2015. Therefore, we are of the considered view that the late fee charged by the Assessing Officer u/s.234E of the Act, while processing quarterly TDS return under section 200A of the Act, is without any authority and invalid. Hence, by respectfully following the decisions of the Hon'ble Jurisdictional Madras High Court in the case of M/s.Sri Rujula International (supra) and Co-

ordinate Bench in the case of M/s.Gopuram Enterprises Private Limited (*supra*), we are of the considered view that the Assessing Officer cannot levy late fee while processing of TDS return u/s.200A of the Act upto the financial year 2014-15. Since, late fee charged in the present case pertaining to the financial years 2013-14 and 2014-15, we direct the Assessing Officer to delete the late fee charged u/s.234E of the Act in the intimation issued u/s.200A of the Act for the processing of quarterly TDS return filed by the assessee.

9. In the result, both the appeals filed by the assessee are allowed.

Order pronounced in the court on 15th July, 2025 at Chennai.

Sd/-
(एस एस विश्वनेत्र रवि)
(S.S. VISWANETHRA RAVI)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 15th July, 2025

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF