



## आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCHES "A" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER  
AND  
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2285, 2286 & 2287/PUN/2025

निर्धारण वर्ष / Assessment Year: 2014-15(Q3, Q2 & Q4)

Dinesh Dattatray Shinde, 1756, Jutica, Teli Ali, Ratnagiri – 415612.	Vs	The Income Tax Officer, Circle-1, Kolhapur.
PAN: KLPDO1360C		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Anup Bipin Shaha(Virtual) & Shri Rohit Rajeev Shah
Revenue by	Smt Neha Thakkar (Virtual)
Date of hearing	21/01/2026
Date of pronouncement	23/01/2026

### आदेश/ ORDER

#### PER BENCH :

These three appeals filed by the Assessee against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income Tax Act, 1961 for A.Y.2014-15-Q3, Q2 & Q4 respectively, all dated 28.07.2025. For the sake of convenience, these three appeals were heard together and are being disposed of by this common order. We treat appeal for A.Y.2014-



15-Q4 as lead appeal. The Assessee has raised the following grounds of appeal :

*“1. On facts and circumstances prevailing in the case, the appellant submits that the Ld. CIT(A) has erred in confirming the penalty levied by the CPC-TDS under section 234E without having any enabling provisions under section 200A of the Income-tax Act, 1961 for making adjustments in respect of statements filed by the appellant with regard to tax deducted at source.*

*2. On facts and circumstances prevailing in the case, the appellant submits that the that the Ld CIT(A) has erred in confirming the action of the CPC-TDS of computing and charging Late Filing Levy beyond the scope of adjustment provided us 200A of the Income Tax Act, 1961*

*3. The assessee prays to add, alter, modify, delete one or any of the grounds.”*

2. The facts mentioned by ld.CIT(A) in para 3.2 are reproduced

here as under :

*“3.2 It is observed that the main point of dispute is that the AO has levied late fees u/s 234E for delay in filing of form 26Q amounting to Rs.25,600/- for the Financial Year 2013-14. The appellant has contended that the amendment to sec 200A came into effect from 01.06.2015.”*

2.1 Based on the above facts, ld.CIT(A) held as under:

*“3.11 From the above judgment it is clear that even in the absence of amendment of sec. 200A, it was always open for revenue to make the levy u/s 234E. Thus, the contention of appellant that section 234E would not be applicable as the amendment to provisions u/s 200A came into effect from 01.06.2015, is here by rejected.*

*3.12 In view of the discussion made in the above para and respectfully following the judgement of Hon'ble Bombay High Court in the case of RashmikantKundalia vs Union of India reported in 54 taxmann.com 200(Bombay) and the judgement of Hon'ble Gujrat High Court in the case of Rajesh Kourani vs UOI (supra), it is held that the provisions of section 234E are applicable since their insertion in 2012 and are applicable to the present Financial Year 2013-14. Accordingly, the late*



*fee of Rs.25,600/- levied by the AO(CPC-TDS) u/s 234E for the delay in filing of statement u/s 26Q by the appellant is upheld. The grounds of appeal relating to levy of penalty u/s 234E of the Act i.e. which are ground no. 1-3 are dismissed.”*

2.2 Aggrieved by the order, Assessee filed appeal before this Tribunal.

**Submission of Id.AR :**

3. Ld.AR submitted that ITAT Pune in various cases has held that 234E late fee is applicable w.e.f. 01.06.2015. In the case of the assessee, Department has levied 234E late fee for the F.Y.2013-14 which is not sustainable as held by ITAT Pune.

**Submission of Id.DR :**

4. Ld.Departmental Representative(ld.DR)for the Revenue relied on the order of the Id.CIT(A). The Id.DR relied on the order of Hon’ble Gujarat High Court in the case of Rajesh Kourani Vs. Union of India 297CTR 502 (Gujarat), wherein Hon’ble Gujarat High Court has held as under :

*“Even in absence of section 200A of the Act with introduction of section 234E, it was always open for the Revenue to demand and collect the fee for late filing of the statements. Section 200A would merely regulate the manner in which the computation of such fee would be made and demand raised. In other words, we cannot subscribe to the view that without a regulatory provision being found for section 200A for*



*computation of fee, the fee prescribed under section 234E cannot be levied. Any such view would amount to a charging section yielding to the machinery provision. If at all, the recasted clause (c) of sub-section (1) of section 200A would be in nature of clarificatory amendment. Even in absence of such provision, as noted, it was always open for the Revenue to charge the fee in terms of section 234E of the Act.”*

4.1 Therefore, ld.DR for the Revenue supported order u/s.200A of the Act and ld.CIT(A)'s order.

### **Findings & Analysis :**

5. We have heard both the parties and perused the records.

5.1 The issue involved in this case is whether late fee under section 234E can be levied for F.Y.2013-14.

5.2 We are aware of the fact that there are contrary decisions on this issue. The Hon'ble Karnataka High Court in Fatheraj Singhvi Vs. Union of India 289 CTR 0602(Kar) held in favour of assessee as under :

*“23. In view of the aforesaid observation and discussion, since the impugned intimation given by the respondent-Department against all the appellants under Section 200A are so far as they are for the period prior to 1.6.2015 can be said as without any authority under law. Hence, the same can be said as illegal and invalid.*



24. ....In view of the reasons recorded by us hereinabove, when the amendment made under Section 200A of the Act which has come into effect on 1.6.2015 is held to be having prospective effect, no computation of fee for the demand or the intimation for the fee under Section 234E could be made for the TDS deducted for the respective assessment year prior to 1.6.2015. Hence, the demand notices under Section 200A by the respondent-authority for intimation for payment of fee under Section 234E can be said as without any authority of law and the same are quashed and set aside to that extent.”

5.3 The decision of the Hon’ble Karnataka High Court was followed by the Hon’ble Kerala High Court in the case of Olari Little Flower Kuries (P.) Ltd., vs. Union of India [2022] 134 taxmann.com 111 (Kerala).

5.4 The Hon’ble Madras High Court in the case of Lingeshwara Creations Vs. PCIT [2024] 168 taxmann.com 383 held as under :

“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.”



5.5 We are aware that Hon'ble Gujarat High Court in the case of Rajesh Kourani Vs. Union of India(supra) has decided the issue in favour of the Revenue.

5.6 No direct decision on the impugned issue of the Hon'ble Jurisdictional High Court has been brought to our notice. In these facts and circumstances of the case, when there are contrary decisions of different Hon'ble High Courts, in the absence of decision of Hon'ble Jurisdictional High Court, the decision which is favourable to the assessee needs to be followed; as observed by the Hon'ble Supreme Court in the case of CIT Vs. Vegetable Products Limited [1973] 88 ITR 192 (SC). The decision of Hon'ble Karnataka High Court(supra) was followed by ITAT Pune Bench in the case of Medical Superintendent Rural Hospital, vs. DCIT, CPC(TDS) [2018] 100 taxmann.com 78.

6. In this case, Late Fee under section 234E has been levied for F.Y.2013-14. The chart submitted by Id.AR is reproduced as under:

FY	Quarter	Return Filed on	Date of 200A order	Late Filing levy
2013-14	Q2	20-Sep-14	25-Sep-14	47,368
2013-14	Q3	20-Sep-14	25-Sep-14	17,735
2013-14	Q4	20-Sep-14	25-Sep-14	25,600



6.1 Admittedly, assessee had filed TDS Return on 20.09.2014 which is before 01.06.2015. Therefore, respectfully following the Hon'ble Karnataka High Court, Hon'ble Madras High Court, Hon'ble Kerala High Court and ITAT Pune Bench(supra) it is held that Late Fee levied under section 234E in the case of the assessee for the period prior to 01.06.2015 is bad-in-law. Accordingly, the Assessing Officer is directed to delete the Late Fee levied under section 234E of the Act. Accordingly, Grounds of appeal raised by assessee are allowed.

7. In the result, appeal of the Assessee is allowed.

### **ITA Nos.2286 & 2287/PUN/2025**

8. The basic particulars pertaining to appeals in ITA Nos.2286 & 2287/PUN/2025 are as under :

#### **ITA No.2286/PUN/2025 :**

F.Y.2014-15 - Q3, Date of filing TDS Statement 20.09.2014;  
Late fee u/s.234E of Rs.17,735/-

#### **ITA No.2287/PUN/2025:**

F.Y.2014-15 – Q2, Date of filing TDS Statement 20.09.2014;  
Late fee u/s.234E of Rs.47,368/-



8.1 Since the facts of the above two appeals are identical to appeal in ITA No.2285/PUN/2025, our decision in ITA No.2285/PUN/2025 shall apply *mutatis mutandis* these two appeals i.e. ITA No.2286/PUN/2025 and ITA No.2287/PUN/2025 also. Accordingly, grounds of appeal raised by the assessee in both these appeals are allowed.

9. To sum up, three appeals of assessee i.e.ITA No.2285/PUN/2025, ITA No.2286/PUN/2025 and ITA No.2287/PUN/2025 are allowed.

Order pronounced in the open Court on 23 January, 2026.

**Sd/-**  
**VINAY BHAMORE**  
**JUDICIAL MEMBER**

**Sd/-**  
**Dr.DIPAK P. RIPOTE**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 23 Jan, 2026/ SGR

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.



आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.