

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

Sl. No.	ITA No(s).	Name of the Applicant	Name of Respondent	Asst. Year	Qtr.	Form
1-3	1916/PUN/2025 1917/PUN/2025 1918/PUN/2025	Hutatma Jaiwantrao Patil Girls High School & Junior College Himayatnagar, Main Road, Himayat Nagar, Nanded- 431801. PAN : NSKHO1375D	ACIT, CPC, TDS, Vaishali Ghaziabad.	2013-14 2013-14 2013-14	Q2 Q4 Q3	24Q 24Q 24Q
4-7	2446/PUN/2025 2447/PUN/2025 2448/PUN/2025 2449/PUN/2025	Hutatma Jaiwantrao Patil Girls High School & Junior College Himayatnagar, Main Road, Himayat Nagar, Nanded- 431801. PAN : NSKHO1375D	CPC, TDS, Ghaziabad.	2014-15 2014-15 2014-15 2014-15	Q1 Q2 Q3 Q4	24Q 24Q 24Q 24Q

Assessee by : Shri Y. S. Nagla
Revenue by : Smt. Sonal L. Sonkavde
Date of hearing : 04.02.2026
Date of pronouncement : 16.02.2026

आदेश / ORDER

PER BENCH :

These appeals filed by the assessee are directed against the separate orders dated 12.06.2025 & 28.08.2025 passed by Ld. Addl./JCIT(A)-7, Kolkata & Ld. Addl./JCIT(A), Panaji ['Ld. CIT(A)'] for the assessment year 2013-14 & 2014-15 respectively.

2. Since the identical facts and common issues are involved in all above captioned seven appeals, we proceed to dispose of the same by this common order.

3. For the sake of convenience and clarity, the facts relevant to the appeal in ITA No.1916/PUN/2025 for A.Y. 2013-14 are stated herein.

ITA No.1916/PUN/2025 , A.Y. 2013-14 [Q2]:

4. The appellant has raised the following grounds of appeal :-

- “1. *The TDS amount deducted during the Financial Year 2012-13 was credited to Central Government Account through Challans.*
2. *The Assessing Officer had no jurisdiction to pass consequent order while processing TDS return for the TDS amount deducted and remitted to Central Government Account prior to 01.06.2015.*
3. *There was delay in submission of TDS return for the Financial Year 2012-13 but the TDS amount deducted was credited to Central Government Account before 01-06-2015, hence Late Filing Fees assessed at the time of Processing of TDS return Under Section 200A (1)(e) is not applicable. As the section was inserted in Act w.e.f 01.06.2015.*
4. *We relied upon the order passed by the Hon'ble High Court of Karnataka in the case of Fatheraj Singhvi V/s Union of India (supra) WRIT APPEAL NOS. 2663-2674/2015 (T-IT) (Copy attached).*
5. *We therefore request that, the late filing fees assessed for F.Y. 2012-13 is to be deleted.”*

5. Facts of the case, in brief, are that the assessee is a Girl's High School, and after depositing the due TDS of Rs.1,61,500/-, Quarterly TDS returns Form 24Q for the Quarter 2 of financial

year 2012-13 was furnished with a delay of 1066 days, since the due date was 15.10.2012 and the relevant TDS return/ statement was filed on 16.09.2015. Accordingly, while processing the 24Q TDS return/statement u/s 200A of the IT Act the CPC, TDS calculated late fees u/s 234E of the IT Act for Q2 of A.Y. 2013-14 & restricted it to Rs.1,61,500/- as per section 234E(2) of the IT Act which suggests that the late fee shall not exceed the amount of TDS.

6. Being aggrieved with the above late fee of Rs.1,61,500/- levied u/s 234E of the IT Act, the assessee preferred an appeal before the Ld. CIT(A). After considering the reply of the assessee, Ld. CIT(A) by a consolidated order for three Quarters i.e. Quarter 2, Quarter 3 and Quarter 4 of financial year 2012-13 dismissed the appeal by observing as under :-

“5. DECISION:-

5.1 I have carefully gone through the part of order passed under section 200A and uploaded by appellant, the grounds of appeal and submission made by the appellant in this regard. Briefly stating facts of the case is that the appellant is an educational institution responsible for deducting and depositing with government account TDS on payments made under various sections of the I.T. Act. For the financial year 2012-13, an order u/s 200A(1) was passed by the CPC, TDS, Vaishali wherein demand u/s 234E for late filing of quarterly returns was raised. It is this order and demand raised therein which the appellant has challenged in this appeal.

5.2 The appellant has not uploaded the order u/s 200A(1) of the I.T. Act passed by CPC, TDS. It has uploaded only a portion of the order from which entire facts are not clear. Even during the appellate stage,

although being asked to do so, the appellant failed to upload the complete order. The appeal is therefore liable to be dismissed being defective.

5.3 As per section 246 / 246A of the I.T. Act, appeals against the orders passed under different sections of the Act are mentioned at clauses (a) to (h) of sec. 246(1) and clauses (a) to (r) of sec. 246A(1). Each of these clauses start with the words “an order”. This indicates that an assessee is required to file separate appeal against each order passed under the specific sections. In this case, for the relevant financial year, three different orders u/s 200A(1) of the Act for the three different quarters were passed by CPC, TDS. The appellant was therefore, as per the provisions of sec. 246(1) /246A(1) of the Act, required to file three different appeals against the three different orders. But it filed only one appeal against all these three orders. The appeal is therefore liable to be dismissed being defective in nature.

5.4 The appellant has claimed that the order was passed on 22.09.2015 and received by it on the same date. It was therefore required to file appeal on or before 22.10.2015. But the appeal was filed on 29.04.2019 thereby with a delay of 1286 days. The appellant has given the following reason for such delay:-

“Intimation generated by CPC – TDS, Ghaziabad as per Clause (e) of Sub Section (1) of Section 200A of Income Tax Act, 1961 for Late Filing Fees under section 234E, and mentioned in the Intimation at Serial Number 8 that, for the recovery of assessed amount, this Intimation may be treated as Notice of Demand under Section 156 of Income Tax Act, 1961. The Notice of Demand under Section 156 of the Income Tax Act, 1961 with reference to Rule No 15 of the Income Tax Rules, 1962, should have been issued by the Jurisdictional Assessing Officer in the Form No 7 for the TDS return submitted by assessee, assessed Under Section 200A by the Commissioner of Income Tax. If such type of notice would have received by the assessee, then only he would have come to know that, the order is appealable under section 246A, since the direction given in Para No 6 of Form No 7 for such arrangement. Due to this anomaly in service of notice, the assessee could not file the appeal within the scheduled time; hence delay in submission is to be condoned. If the delay condoned in submission of Appeal, the genuine hardship occurred to the assessee will be solved.”

It is noted that the appellant has mainly raised objection to passing of order by CPC and not the jurisdictional TDS assessing officer. In this regard, it is to be stated that processing of quarterly TDS returns by CPC, TDS was mandated by I.T. Act by the introduction of sub-section (2) to section 200A of the Act with effect from 01.04.2010. So, appellant’s argument that the delay in filing of appeal was attributed

to passing of impugned orders by CPC, TDS and not by jurisdictional TDS assessing officer is not justified and rejected. The appeal is therefore liable to be dismissed being barred by limitation.

5.5 Notwithstanding the facts discussed in aforementioned paras, where it has been discussed that the appeals are liable to be dismissed due to technical ground, I will decide the appeal on merit also. Appellant has mainly raised grounds of appeal against levy of fees u/s 234E of the I.T. Act by way of processing of the corresponding quarterly returns u/s 200A of the Act. Its argument is that since the provision was introduced by clause (c) of section 200A(1) only with effect from 01.06.2015, quarterly returns for periods prior to this period will not be covered by sec. 200A(1)(c). The issue to be decided is whether fees for late filing of TDS return as per section 234E of the Act can be levied by way of processing of the said TDS return. Before deciding on the issue as to whether CPC, TDS was legally correct and justified to levy fees u/s 234E, the following provisions of the Income Tax Act needs to be highlighted:-

1. The mandate for levying fees for not filing of quarterly returns / statements of TDS within the time prescribed in sub-section (3) of sec. 200 or the proviso to sub-section (3) of sec. 206C was inserted in the I.T. Act by section 234E with effect from 01.07.2012.

1. The mandate for summary processing of quarterly returns / statements of TDS [equivalent to processing of returns of income u/s 143(1)] filed u/s 200 of the Act was inserted by Finance (no. 2) Act, 2009 by section 200A with effect from 01.04.2010.

3. The mandate for levy of fee u/s 234E by processing of TDS returns / statements u/s 200A was inserted by Finance Act, 2015 at clause (c) of section 200A(1) with effect from 01.06.2015.

From the above three provisions of the Act, it is clear that fees for late filing of TDS returns leviable u/s 234E was introduced in the I.T. Act with effect from 1st July, 2012 itself. But whether on default committed by deductors on this account, the said fee u/s 234E can be levied by way of processing of return u/s 200A with effect from that date of 1st July, 2012 is debatable because parliament mandated levy of fees u/s 234E by way of processing of returns u/s 200A only from 1st June, 2015. The entire dispute therefore centers around whether quarterly returns / statements of TDS filed for the 2nd quarter of financial year 2012-13 and till the 4th quarter of financial year 2014-15 can be processed u/s 200A by CPC, TDS with the levy of fees u/s 234E. Since the matter is a legal one and there is no clarity available in the Act itself, one has to go by the judgements of Courts and Tribunals. In this regard,

1. *Karnataka High Court in the case of Fatheraj Singhvi vs. Union of India, Writ Appeals no. 2663-2674/2015(T-IT) date of judgement 26.08.2016 held that – “late filing fee levied u/s 234E of the Act while processing the TDS statements is ultra vires to section 200A of the Act. Thus, fee charged u/s 234E of the Act and consequently, interest u/s 220(2) of the Act is also liable to be cancelled. The Hon’ble High Court observed in para no 27:- “In view of the aforesaid observations and discussion, the impugned notices under Section 200A of the Act for computation and intimation for payment of fee under Section 234E as they relate to for the period of the tax deducted prior to 1.6.2015 are set aside. It is clarified that the present judgment would not be interpreted to mean that even if the payment of the fees under Section 234E already made as per demand/intimation under Section 200A of the Act for the TDS for the period prior to 01.04.2015 is permitted to be reopened for claiming refund. The judgment will have prospective effect accordingly. It is further observed that the question of constitutional validity of Section 234E shall remain open to be considered by the Division Bench and shall not get concluded by the order of the learned Single Judge.”*
2. *On the other hand, in a subsequent judgement, the Madras High Court in the case of M/s. Conceria International Private Limited vs ITO, TDS, Vellore and ACIT, CPC, TDS, Vaishali, Writ Appeal no. 16934 of 2021, date of judgement 10.11.2023 held that – “With the above overview of Section 234 E of the Act and on considering both the above views, it appears to me that the opinion expressed by the Gujarat High Court that Section 234E of the Act by itself creates a liability and the liability to pay the late fee is not dependent on Section 200A(1)(c) of the Act which only prescribes the recovery mechanism reflects the true intent and purpose of Section 234E of the Act. Section 234E of the Act which provides for late fee is the substantive provision and the levy is not dependent on Section <https://www.mhc.tn.gov.in/judis> 200A(1)(c) of the Act which only prescribes a recovery mechanism. A reading of Section 234E of the Act would make it clear that it gets attracted, the moment there is a failure on the part of a person to deliver or cause to be delivered a statement within the time prescribed in sub- section (3) of Section 200 or the proviso to sub Section (3) of Section 206C of the Act. The person committing the above breach / infraction renders himself liable to pay by way of fee a*

sum of Rs.200 everyday during which the failure continues. Sub-section (3) in fact provides for a self assessment / payment of the fee while delivering or causing to deliver a statement in accordance with sub-section(3) of Section 200 or the proviso to sub-section(3) of Section 206C of the Act. Sub Section(4) to Section 234E of the Act also makes it clear that the above provision would be effective from 01.07.2012. Therefore the submission that 234E of the Act would not be operable / effective unless and until Section 200A(1)(c) was introduced overlooks the fact that Section 234E (1) of the Act is the substantive provision and Section 234E(3) of the Act provides for a self declaration / payment for the delay in complying with sub-section(3) of Section 200 or the proviso to sub - section(3) of Section 206C of the Act. With due respect I am unable to subscribe to the view expressed by the Karnataka High Court in view of the reasons stated supra.”

I have therefore no other option but to rely on the recent judgement of High Court, being Madras High Court in the case of Conceria International and rule against the appellant. The levy of fees u/s 234E of the Act by CPC, TDS is therefore confirmed.

The appeal is therefore dismissed on technical ground as well as on merits.”

7. It is the above order against which the assessee is in appeal before this Tribunal.

8. We have heard Ld. counsels from both the sides and perused the material available on record. In this regard, we find that Ld. CIT(A) has dismissed the appeal on technical grounds as well as on merits of the case. In this regard, we find that admittedly the assessee has furnished TDS quarterly returns belatedly. However, at the same time, we are also aware that the amendment to clause (c) of section 200A of the IT Act which provides for levy of late

fee in accordance with section 234E of the IT Act was brought on the Statute w.e.f. 01.06.2015 and is held to be prospective in nature by various coordinate benches of this Tribunal and therefore late fee u/s 234E of the IT Act has to be calculated from 01.06.2015 only and not for the period prior to this date. In this regard, we find support from the coordinate bench decision passed in the case of Shrikrishna Lakshmi Narayan Thakur ITA Nos.2299 to 2307/PUN/2024 order dated 23-01-2025 wherein the Tribunal directed to calculate late fee u/s 234E of the IT Act only from 01-06-2015 by observing as under :-

“5. We have heard both the parties and perused the records placed before us. The solitary issue in this batch of appeals is against the levy of fee u/s.234E of the Act by CPC for delay in filing the TDS quarterly returns and Ld. CIT(A)/NFAC confirming such levy of fee u/s.234E for filing the Quarterly returns after the due date.

6. We observe that the issue of levy of fee u/s.234E is no more res integra by virtue of several decisions rendered by this Tribunal on this very issue. It shows that the late fee u/s.234E has been imposed for the delay in furnishing the statements for quarters, in the returns processed u/s.200A of the Act prior to 01.06.2015 and post 01.06.2015. As regards the fate of fees levied u/s.234E of the Act for the returns filed and processed before 01.06.2015, we find the Coordinate Benches of this Tribunal after considering the judicial pronouncements have been taking a consistent view that the amendment brought in Finance Act, 2015 w.e.f. 01.06.2015 under Section 200A (clause (c)] of the Act is prospective in nature thereby empowering the Revenue authorities to charge fee u/s.234E of the Act only after 01.06.2015. In that view of the matter, Revenue authorities are empowered to impose such late fee u/s.234E only for the default committed after 01.06.2015 and not prior to that. The Hon’ble Kerala High Court in Olari Little Flower Kuries Pvt. Ltd. Vs. Union of India and others (2022) 440 ITR 26 (Kerala) has affirmed the non-imposition of fee for the period prior to 01.06.2015. Similar view has been taken in Jiji Varghese VS. ITO(TDS) & Ors. (2022) 443

ITR 267 (Ker) holding that no fee u/s.234E can be imposed for the periods of the respective A.Ys. prior to 1st June, 2015. Similar view was also taken by this Tribunal in the case of Dadasaheb Vitthalrao Urhe Vs. ITO (TDS), Pune in ITA Nos.1286 to 1309/PUN/2023, dated 29.02.2024. Thus, it is seen that the issue raised in the following appeals is covered in favour of the assessee as the returns u/s.200A(c) were processed before 01.06.2015.

<i>Sl. No</i>	<i>ITA No(s).</i>	<i>Asst. Year</i>	<i>Quar ter</i>	<i>Form</i>	<i>Order date</i>
1	ITA Nos.2299/PUN/2024	2013-14	Q4	26Q	20.01.2014
2	ITA No.2300/PUN/2024	2014-15	Q1	26Q	15.03.2014
3	ITA No.2301/PUN/2024	2014-15	Q2	26Q	15.03.2014
4	ITA No.2302/PUU/2024	2014-15	Q3	26Q	15.03.2014
5	ITA No.2303/PUN/2024	2014-15	Q4	26Q	11.10.2014
6	ITA No.2165/PUN/2024	2013-14	Q3	26Q	20.01.2014
7	ITA No.2166/PUN/2024	2013-14	Q2	26Q	20.01.2014
8	ITA No.1322/PUN/2024	2013-14	Q2	26Q	20.01.2014

7. *Following the precedent, we overturn the impugned orders on this sole issue and allow the effective grounds of appeal raised by the assessee in all these eight appeals.*

8. *So far as the following appeals corresponding to respective quarter are concerned, the late fee u/s.234E has been imposed for the delay in furnishing the statements and the returns have been processed u/s.200A of the Act after 01.06.2015. In light of our observation above, it is held that penalty u/s.234E is leviable since amendment brought in Finance Act, 2015 w.e.f. 01.06.2015 under Section 200A (clause (c)] of the Act is prospective in nature and Revenue authorities are empowered to levy penalty u/s.234E. However, penalty u/s.234E has to be computed from 01.06.2015 till the processing of the return for which necessary calculation to be made at the end of the concerned Revenue authority. The details of appeals whose returns have been processed after 01.06.2015 are given below :*

<i>Sl. No.</i>	<i>ITA No(s).</i>	<i>Asst. Year</i>	<i>Quar ter</i>	<i>Form</i>	<i>Order date</i>
1	ITA Nos.2304/PUN/2024	2015-16	Q1	26Q	27.10.2015
2	ITA No.2305/PUN/2024	2015-16	Q4	26Q	28.10.2015

3	<i>ITA No.2306/PUN/2024</i>	<i>2015-16</i>	<i>Q3</i>	<i>26Q</i>	<i>24.10.2015</i>
4	<i>ITA No.2307/PUU/2024</i>	<i>2015-16</i>	<i>Q2</i>	<i>26Q</i>	<i>24.10.2015</i>
5	<i>ITA No.2308/PUN/2024</i>	<i>2016-17</i>	<i>Q1</i>	<i>26Q</i>	<i>25.08.2016</i>

Accordingly, the grounds of appeal raised by the assessee in respect of the above-mentioned five appeals are partly allowed.

9. In the result, all the appeals of the assessee are disposed off as per terms indicated above.”

9. Respectfully following the above decision passed by a coordinate bench of this Tribunal in the case of Shrikrishna Lakshmi Narayan Thakur (supra), we are of the considered opinion that the late fee u/s 234E of the IT Act in the instant case has to be calculated only from 01.06.2015 till the filing of the TDS return for which necessary calculation to be made at the end of the concerned revenue authority. Accordingly, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and restore the matter back to the file of the Jurisdictional TDS Officer with a direction to re-calculate late fees u/s 234E only w.e.f. 01.06.2015 till the date of filing of relevant TDS return/statement. Thus, the grounds of appeal raised by the assessee are partly allowed.

10. In the result, the appeal filed by the assessee in ITA No.1916/PUN/20025 is partly allowed.

ITA Nos.1917 & 1918/PUN/2025, A.Y. 2013-14 [Q4 & Q3]:

11. Since the facts and issues involved in remaining two appeals of the assessee are identical, therefore, our decision in ITA No.1916/PUN/2025 shall apply *mutatis mutandis* to the remaining two appeals of the assessee in ITA Nos.1917 & 1918/PUN/2025. Accordingly, the remaining two appeals of the assessee in ITA Nos.1917 & 1918/PUN/2025 are also partly allowed.

ITA No.2446/PUN/2025, A.Y. 2014-15 [Q1] :

12. Facts of the case, in brief, are that the assessee is a Girl's High School, and after depositing the due TDS of Rs.1,33,650/-, Quarterly TDS returns Form 24Q for the Quarter 1 of financial year 2013-14 was furnished with a delay of 1085 days, since the due date was 15.07.2013 and the relevant TDS return/ statement was filed on 05.07.2016. Accordingly, while processing the 24Q TDS return/statement u/s 200A of the IT Act the CPC, TDS calculated late fees u/s 234E of the IT Act for Q1 of A.Y. 2014-15 & restricted it to Rs.1,33,650/- as per section 234E(2) of the IT Act which suggests that the late fee shall not exceed the amount of TDS.

13. Being aggrieved with the above late fee of Rs.1,33,650/- levied u/s 234E of the IT Act the assessee preferred an appeal before the Ld. CIT(A). After considering the reply of the assessee, Ld. CIT(A) by a consolidated order for four Quarters i.e. Quarter 1, Quarter 2, Quarter 3 and Quarter 4 of financial year 2013-14 dismissed the appeal without condoning the delay of 996 days and without going into merits of the case.

14. It is the above order against which the assessee is in appeal before this Tribunal.

15. We have heard Ld. counsels from both the sides and perused the material available on record. In this regard, we find that admittedly Ld. CIT(A) has dismissed the appeal on the ground of delay without going into merits of the case. Time and again it has been held by Hon'ble Courts that the delay should not come in the way of substantive justice. In this regard, we find support from the judgement passed by Hon'ble Apex Court in the case of Collector, Land Acquisition vs. Mst. Katiji [1987] 167 ITR 471 (SC) and in the case of Inder Singh v. State of Madhya Pradesh judgment dated 21.03.2025 (2025 INSC 382) I wherein Hon'ble Court held that a liberal approach should be taken in condoning delays when the limitation ground undermines the merits of the case and obstructs

substantial justice. Accordingly, we condone the delay. In this regard, we find that the assessee is a Girl's School and Education Institution and we have already adjudicated the identical issue in the case of assessee itself in other appeals i.e. ITA Nos.1916 to 1918/PUN/2025 for A.Y. 2013-14 and decided the case on merits therefore, in the interest of justice, we deem it appropriate to set-aside the order passed by Ld. CIT(A) and following our earlier decision passed in assessee's own case in ITA Nos.1916 to 1918/PUN/2025 for A.Y. 2013-14 restore the matter back to the file of the Jurisdictional TDS Officer with a direction to re-calculate late fees u/s 234E only from 01.06.2015 till the date of filing of relevant TDS return/statement. Thus, the grounds of appeal raised by the assessee are partly allowed.

16. In the result, the appeal filed by the assessee in ITA No.2446/PUN/2025 is partly allowed.

ITA Nos.2447 to 2449/PUN/2025
[Q2, Q3 & Q4 of A.Y. 2014-15]:

17. Since the facts and issues involved in remaining three appeals of the assessee are identical, therefore, our decision in ITA No.2446/PUN/2025 shall apply *mutatis mutandis* to the remaining three appeals of the assessee in ITA Nos.2447 to 2449/PUN/2025.

Accordingly, the remaining three appeals of the assessee in ITA Nos.2447 to 2449/PUN/2025 are also partly allowed.

18. To sum up, all the above seven captioned appeals of the assessee are partly allowed.

Order pronounced on this 16th day of February, 2026.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 16th February, 2026.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Addl./JCIT(A)-7, Kolkata.
4. The Addl./JCIT(A), Varanasi.
5. The Pr. CIT/CIT concerned.
6. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
7. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.