

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AGRA BENCH, AGRA**

**BEFORE : SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 589,594,595 & 596/Agr/2025  
Assessment Year : 2015-16, 2015-16, 2015-16 & 2014-15**

Civil Surgeon Cum Hospital Superintendent Bhind Hospital Campus, Gwalior Road, Gwalior M.P. – 477 001	V	Assessing officer, TDS office Near BSNL office, Gwalior  M.P. – 474 001
<b>PAN : BPLCO2273F</b>		
(Appellant)		(Respondent)

Assessee by	Shri Neeraj Jain, CA
Department by	Shri Anil Kumar, Sr. DR

Date of hearing	18/02/2026
Date of pronouncement	19/02/2026

**ORDER**

**PER SUNIL KUMAR SINGH, JUDICIAL MEMBER**

These appeals have been preferred against the impugned orders each dated 11.07.2025, passed in Appeal Nos. NFAC/2013-14/10373239, NFAC/2013-14/10373238, NFAC/2013-14/10373237 & NFAC/2012-13/10373233 respectively by the Ld. Commissioner of Income-tax(Appeals)/National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred to as the "CIT(A)") u/s. 250 of the Income tax Act, 1961 (hereinafter referred to as "Act"] for the Assessment years [shown as above, wherein learned CIT(A) has confirmed the orders each dated 28.04.2024 passed u/s 154 r.w.s. 200A/206C of the Act by the CPC and dismissed assessee's appeals.

2. At the very outset, we notice that registry has reported that all these appeals are time-barred due to a delay of 84-85 days. Delay condonation applications along with an affidavit of Shri Anil Kumar Jain, Account officer of the appellant are on record, wherein, it has been stated that the delay was caused due to the transfer of the authority of the appellant Hospital and resumption of duty by the succeeding

**ITA No. 589,594,595 & 596/Agr/2025**

Civil Surgeon Cum Hospital Superintendent Bhind, Gwalior v

Assising officer TDS office, Gwalior

authority on 28.09.2025. We treat the un-rebutted cause shown in the affidavit as sufficient. The delay caused in filing all the four appeals stand condoned.

3. The facts and issues involved in all these appeals are almost similar, hence for the sake of brevity and convenience, all these appeals are being decided by this common order.

4. The brief facts state that the appellant in all the four appeals is Govt. Civil, Hospital and engaged in providing hospitality services. The appellant submitted delayed e-TDS returns/statements for different Quarters for the years under consideration after deducting TDS on Salary of its employees. The required details are tabulated as under:

A.Y.	QTR.	TDS Statement filed on	Delay in filling TDS Statement	Late fees levied u/s 234E @ 200/- per day	Interest levied u/s 220(2)
2015-16	Q-2- 24Q	04.04.2015	152 days	30,400/-	32,832/-
2015-16	Q-1- 24Q	04.04.2015	244 days	48,800/-	52,704/-
2015-16	Q-3- 24Q	04.04.2015	108 days	21,600/-	23,112/-
2014-15	Q-4- 24Q	23.05.2014	08 days	1,600/-	1,904/-

The aforesaid Quarterly returns/statements were processed u/s 200(A) of the Act by the CPC(AO) and information was sent to the appellant, demanding the payment of late fee u/s 234E of the Act and interest u/s 220(2) of the Act as per the details tabulated hereinabove. The appellant filed rectification applications u/s 154 of the Act against the intimations orders passed u/s 200A of the Act, which were rejected by CPC, vide orders each dated 28.04.2024.

5. Aggrieved, assessee preferred appeals before Ld. CIT(A) against the orders passed by the assessing officer. Ld CIT(A) dismissed assessee's all four appeals.

6. Appellant assessee has preferred these second appeals on the common ground that Ld. CIT(A) has erred in confirming the levy of late filing fee imposed by the assessing officer (CPC), ignoring the fact that the belatedly filed TDS returns were processed and accepted by the CPC without prior deposit of said late filing fee and without affording reasonable and proper opportunity of hearing to the appellant.

**ITA No. 589,594,595 & 596/Agr/2025**

Civil Surgeon Cum Hospital Superintendent Bhind, Gwalior v  
Assising officer TDS office, Gwalior

7. Perused records. Heard Ld. representative for the appellant and Ld. Sr. DR for the respondent revenue.

8. The main point for determination under appeal is as to whether Ld.CIT(A) has erred in confirming the assessing officer's imposition of late filing fee in respect of quarterly TDS statements u/s 234E and interest u/s 220(2) tabulated as above.

9. Ld. AR for the assessee has submitted that the impugned late filing fee has been imposed on the basis of section 200A (1)(c), which was inserted by finance Act 2015, w.e.f. 01.06.2015. The duration in the instant case is of prior to 01.06.2015. Ld. AR has referred consolidated order dated 31.05.2018 passed by the Agra Bench of this Tribunal in bunch cases of ITA No. 03/Agr/2018, A.Y. 2013-14, State Bank of India V ITO (TDS) and many others.

10. Ld. Sr. DR has supported the impugned order.

11. We notice that section 200A was amended by finance Act, 2015, w.e.f. 01.06.2015 and clauses (c) to (f) were substituted for old clauses (c) to (e). the substituted clause (c) speaks that the fee, if any, shall be computed in accordance with the provisions of section 234E. This amended provision has been dealt with by this tribunal in State Bank of India V ITO (TDS) (Supra). The relevant paras read as under:

“8. Heard the rival contention and perused the material relevant. We find that while deciding the issue against the appellant assessee the ld. CIT(A) has placed reliance on ‘Rajesh Kaurani vs. Union of India’, 83 Taxmann.com 137 (Guj.) wherein it was held that Section 200A of the Act is a machinery provision providing the mechanism for processing a TDS statement of deduction of tax at source and for making adjustment. The Ld. CIT(A) has further held that this decision was delivered after considering numerous ITAT and High Court decisions and therefore this decision in ‘Rajesh Kaurani’ (Supra), holds the fields.

9. It is seen that prior 01.06.2015, there was no enabling provision in the Act u/s 200A for raising demand in respect of levy of fee u/s 234E of the Act. The provision of Section 234E of the Act is charging provision i.e. substantive provision which could not be applied retrospectively, unless it is expressly provided in the Act, to levy the late fee for any delay in filing the TDS statement for the period prior to 01.06.2015. The counsel for the assessee has rightly contended that in the absence of enabling provisions u/s 200A of the Act, such levy of late fee is not valid relying on the decisions in the cases of ‘CIT vs. Vatika Township Pvt. Ltd. (2014) 367 ITR 466 (SC), ‘Sudarshan Goyal vs DCIT (TDS)’ ITA No.442/Agr/2017 and Fatehraj Singhvi Vs. UOI (2016) 289 CTR 0602 (Karn) (HC). The decisions relied on by the Ld. DR are distinguishable on facts, as the issue involved in those cases pertains to interest u/s 201(1) and 201(1A) on the amount of TDS whereas in

**ITA No. 589,594,595 & 596/Agr/2025**

Civil Surgeon Cum Hospital Superintendent Bhind, Gwalior v

Assising officer TDS office, Gwalior

the present cases the issue were pertains to liability of late fee u/s 234E of the Act for delay in filing TDS statement which was inserted from 01.06.2015.

10. On similar facts, we have decided the same issue in the assessee's own case 'Sudershan Goyal vs. DCIT (TDS)', in ITA No. 442/Agra/2017 dtd. 09.04.2018 authored by one of us (the Ld. J.M.). The relevant part of the order is reproduced as follows:

*"3. Heard. The ld. CIT(A), while deciding the matter against the assessee, has placed reliance on 'Rajesh Kaurani vs. UOI', 83 Taxmann.com 137 (Guj), wherein, it has been held that section 200A of the Act is a machinery provision providing the mechanism for processing a statement of deduction of tax at source and for making adjustments. The ld. CIT(A) has held that this decision was delivered after considering numerous ITAT/High Court decisions and so, this decision in 'Rajesh Kaurani' (supra) holds the field.*

*4. We do not find the view taken by the ld. CIT(A) to be correct in law. As against 'Rajesh Kaurani' (supra), 'Shri Fatehraj Singhvi and Others vs. UOI', 73 Taxmann.com 252 (Ker), as also admitted by the ld. CIT(A) himself, decides the issue in favour of the assessee. The only objection of the ld. CIT(A) is that this decision and others to the same effect have been taken into consideration by the Hon'ble Gujarat High Court while passing 'Rajesh Kaurani' (supra). However, while observing so, the ld. CIT(A) has failed to take into consideration the settled law that where there is a cleavage of opinion between different High Courts on an issue, the one in favour of the assessee needs to be followed. It has so been held by the Hon'ble Supreme Court in 'CIT vs. Vegetable Products Ltd.', 88 ITR 192 (SC). It is also not a case where the decision against the assessee has been rendered by the Jurisdictional High Court qua the assessee.*

*5. In 'Shri Fatehraj Singhvi and Others' (supra) it has been held, inter alia, as follows:*

*"22. It is hardly required to be stated that, as per the well established principles of interpretation of statute, unless it is expressly provided or impliedly demonstrated, any provision of statute is to be read as having prospective effect and not retrospective effect. Under the circumstances, we find that substitution made by clause (c) to (f) of sub-section (1) of Section 200A can be read as having prospective effect and not having retroactive character or effect. Resultantly, the demand under Section 200A for computation and intimation for the payment of fee under Section 234E could not be made in purported exercise of power under Section 200A by the respondent for the period of the respective assessment year prior to 1.6.2015. However, we make it clear that, if any deductor has already paid the fee after intimation received under Section 200A, the aforesaid view will not permit the deductor to reopen the said question unless he has made payment under protest."*

**ITA No. 589,594,595 & 596/Agr/2025**

Civil Surgeon Cum Hospital Superintendent Bhind, Gwalior v  
Assising officer TDS office, Gwalior

6. *In view of the above, respectfully following 'Shri Fatehraj Singhvi and Others' (supra), 'Sibia Healthcare Pvt. Ltd. vs. DCIT (TDS)', order dated 09.06.2015 passed in ITA No.90/ASR/2015, for A.Y.2013-14, by the Amritsar Bench of the Tribunal, and 'Shri Kaur Chand Jain vs. DCIT, CPC (TDS) Ghaziabad', order dated 15.09.2016, in ITA No.378/ASR/2015, for A.Y. 2012-13, the grievance of the assessee is accepted as justified. The order under appeal is reversed. The levy of the fee is cancelled."*

11. *In the above view, respectfully following 'Shri Fatehraj Singhvi and Ors' (Supra), 'Sibia Healthcare Pvt. Ltd. Vs. DCIT (Supra), 'Shri Kaur Chand Jain vs. DCIT', (Supra), and our own finding in the case of 'Sudershan Goyal' (Supra), we accept the grievance of the assesseees as genuine. Accordingly, the orders of the CIT(A) are reversed and the fee so levied under section 234E of the Act is cancelled."*

12. In view of the aforesaid order passed by this Tribunal, it becomes clear that section 200A of the Act, is a machinery provision providing the mechanism for processing a statement of deduction of tax at source and for making adjustment. The demand u/s 200A for computation and intimation for the payment of fee u/s 234E could not be made in purported exercise of power u/s 200A by the respondent revenue for the period of the respective assessment years prior to 01.06.2015. The fee so levied u/s 234E is not tenable in the facts of instance case. The aforesaid point is accordingly determined in positive in favour of the assessee and against the revenue. The appeal is liable to be allowed.

13. In the result, assessee's appeals ITA Nos. 589, 594, 595 & 596/Agr/2025 are allowed. The impugned order each dated 11.07.2025 are set aside.

**Order pronounced in the open court on 19.02.2026.**

**Sd-**

**(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Dated: 19.02.2026

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

**Sd-**

**(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

Asst. Registrar,  
ITAT, Agra