

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

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

Sl. No.	ITA No(s).	Name of the Applicant	Name of Respondent	Asst. Year	Qtr.	Form
1-6	2727/PUN/2025 2728/PUN/2025 2729/PUN/2025 2730/PUN/2025 2731/PUN/2025 2732/PUN/2025	Durga Machtech Pvt. Ltd., S. No.77/7, Dangat Industrial Estate, Behind Agarwal Godown, NDA Road, Shivane, Pune- 411023. PAN : AACCD8703G	ITO, TDS Ward-1, Pune.	2013-14 2013-14 2013-14 2013-14 2013-14 2013-14	Q2 Q3 Q4 Q2 Q3 Q4	24Q 24Q 24Q 26Q 26Q 26Q
7-12	2733/PUN/2025 2734/PUN/2025 2735/PUN/2025 2736/PUN/2025 2737/PUN/2025 2738/PUN/2025	Durga Machtech Pvt. Ltd., S. No.77/7, Dangat Industrial Estate, Behind Agarwal Godown, NDA Road, Shivane, Pune- 411023. PAN : AACCD8703G	ITO, TDS Ward-1, Pune.	2014-15 2014-15 2015-16 2015-16 2015-16 2015-16	Q1 Q1 Q1 Q2 Q2 Q3	24Q 26Q 24Q 24Q 26Q 26Q

Assessee by : Adjournment Application Rejected

Revenue by : Shri Shashank Ojha (Virtual)

Date of hearing : 12.03.2026

Date of pronouncement : 26.03.2026

आदेश / ORDER

PER BENCH :

These appeals filed by the assessee are directed against the separate orders dated 29.08.2025 passed by Ld. CIT(A)/NFAC for the assessment years 2013-14 to 2015-16 respectively.

2. Since the identical facts and common issues are involved in all above captioned twelve 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.2727/PUN/2025 for A.Y. 2013-14 are stated herein.

ITA No.2727/PUN/2025 , A.Y. 2013-14 [Q2]:

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

- “1. *On the basis of facts and circumstances of the case and as per law, the Commissioner of Income Tax, (Appeals) of National Faceless Appeal Centre, Delhi, had dismissed the appeal only on the ground of delay.*
The appeal is filed against the CPC order dt 21/04/2024 and NOT against the order dt 25/10/2016 as averred by CIT(A).
2. *Without prejudice to Ground No 1 above on the basis of facts and circumstances of the case and as per law, CPC TDS has no authority to levy fine u/s 234E before 31st May 2015.*
3. *Without prejudice to Ground No 1 & 2 above on the basis of facts and circumstances of the case and as per law, the Ld CIT(A) should have condoned the delay in filing the first appeal, if any. The limitation in filing the appeal is not applicable when the jurisdiction is under challenge by the assessee.*
The assessee, therefore, prays to set aside the order of CIT(A) dt 29/08/2025 for re-adjudication, de novo, after taking into account that the delay is not applicable, when jurisdiction is challenged, by the assessee. Refer Jiji Varghese v ITO (2022) 443 ITR 267 (Ker).
4. *Without prejudice to Ground No 1 to 3 above on the basis of facts and circumstances of the case and as per law, the Commissioner of Income Tax, (Appeals) of National Faceless*

Appeal Centre, Delhi, has erred in confirming the fine of Rs 47,760/- u/s 234E for the period prior to 01st June, 2015.

5. *The appellant craves leave to add, alter, omit or substitute any of the grounds at the time of hearing of the appeal.”*

5. Facts of the case, in brief, are that the assessee is a Private Limited Company and furnished Form 24Q statement of TDS on salary for the Quarter 2 of financial year 2012-13 with delay of 381 days, since the due date was 15.10.2012 and the relevant TDS return/ statement was filed on 31.10.2013. 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 of Rs. 47,760/- for Q2 of A.Y. 2013-14. Subsequently, the assessee filed an application for rectification u/s 154 of the IT Act for correction in the above intimation u/s 200A of the IT Act for which the correction order was passed on 20.04.2024.

6. Being aggrieved with the above rectified order dated 20.04.2024, the assessee preferred an appeal belatedly i.e. on 09.02.2025 before the Ld. CIT(A)/NFAC. Since the assessee remained absent, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee by treating the same as time barred since it was filed belatedly.

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

8. When the appeals were called for hearing, a letter duly signed by the counsel of the assessee CA Sharad Vaze was produced before the bench, wherein request for adjournment was made, however as per record, no power of attorney was filed. From perusal of impugned order passed by Ld. CIT(A)/NFAC, it is apparent that it was passed *ex-parte* & on technical ground of delay in filing the appeal. We further find that Ld. Counsel of the assessee has already furnished a paper book in support of its contentions. Under these facts & in the circumstances of the case, we deem it appropriate to reject the request for adjournment & proceed to adjudicate the appeal after considering paper book furnished by Ld. Counsel of the assessee.

9. We have heard Ld. DR and perused the material available on record including the paper book furnished by Ld. AR of the assessee, CA Sharad A. Vaze. In this regard, we find that Ld. CIT(A)/NFAC has decided the appeal *ex-parte* & dismissed the appeal on technical ground of delay only. In this regard, we find that in the paper book furnished by the assessee reliance was placed

on a judgement passed by Hon'ble High Court of Kerala in the case of Jiji Varghese vs. ITO, (2022) 443 ITR 267 (Ker) wherein under identical facts and involving the same issue of late fee u/s 234E of the IT Act, delay was condoned by observing as under :-

“6. I have considered the rival contentions.

7. In the decision in Sarala Memorial Hospital v. Union of India [WP (C) No. 37775 of 2018, dated 18-12-2018] an identical question arose for consideration. After considering the statutory provisions of section 234E and section 200A of the Act and the implications of the amendment brought in to the Act, it was held that the amendment would take effect only from 1st June, 2015 and is thus prospective in nature. The aforesaid judgment has become final and is binding upon the authorities. Thus the jurisdiction to levy late fee under section 234E arises only from 1-06.2015 and not earlier.

8. As regards the contention on the delay, though the said contention was impressive on first blush, it can be seen that the nature of challenge raised by the petitioner is based upon the lack of jurisdiction of the respondents to impose late fee. Since in matters where total lack of jurisdiction is alleged, delay cannot be relied upon as a ground to deny the relief, this Court is of the view that the objections of the respondents are without any basis.

9. Further the decisions cited are distinguishable on the facts of those cases itself. In the decision in Digambar's case (supra), the delay of 20 years in approaching the High Court for grant of compensation for alleged utilization of the land was held as a decisive factor to disentitle the petitioner therein. Similarly in G.C. Gupta's case (supra) the issue related to seniority and petitioners challenged the orders of confirmation and determination of inter se seniority only after 15 years. In the decision in Bhailal Bhai's case (supra) the question related to refund of tax claimed belatedly. None of those cases related to a total lack of jurisdiction or authority.

10. In view of the above, the demand in Ext.P1 to Ext.P9 intimations for the period from 2012-13 to 2014-15 is bereft of authority and cannot be legally sustainable.

11. Accordingly, I quash Ext.P1 to Ext.P9 intimations to the extent it demands late fee under section 234E for the period from 2012-13 till 1-6-2015.

The writ petition is therefore allowed as above.”

10. Respectfully following the above judgment of Hon'ble Kerala High Court in the case of Jiji Varghese (supra), we are of the considered opinion that the dismissal of appeal by Ld. CIT(A)/NFAC on the ground of delay was not justified, since the jurisdiction to levy late fee itself, was under challenge and therefore the delay, if any, in the instant case, ought to have been condoned by Ld. CIT(A)/NFAC.

11. Considering the totality of the facts of the case & in view of our above discussion, we deem it appropriate to set-aside the *ex-parte* order passed by Ld. CIT(A)/NFAC & without going into merits of the case restore the matter back to the file of Ld. CIT(A)/NFAC with a direction to condone the delay & decide the appeal afresh & as per fact & law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard & to produce submissions & case laws, if any, in support of grounds of appeal without taking any adjournment under any pretext otherwise Ld. CIT(A)/NFAC shall be at liberty to pass appropriate orders as per law. Accordingly, ground no. 3 raised by the assessee is allowed for statistical purposes. Since we have

allowed alternative ground no. 3 raised by the assessee, the other grounds raised by the assessee becomes infructuous hence not adjudicated.

12. In the result, the appeal filed by the assessee in ITA No.2727/PUN/20025 for A.Y. 2013-14 is allowed for statistical purposes.

ITA Nos.2728 to 2732/PUN/2025, A.Y. 2013-14 [Q2, Q3 & Q4]:

13. Since the facts and issues involved in ITA Nos.2728 to 2732/PUN/2025 for A.Y. 2013-14 are identical, therefore, our decision in ITA No.2727/PUN/2025 for A.Y. 2013-14 shall apply *mutatis mutandis* to the appeals of the assessee in ITA Nos.2728 to 2732/PUN/2025 for A.Y. 2013-14. Accordingly, the appeals of the assessee in ITA Nos.2728 to 2732/PUN/2025 for A.Y. 2013-14 are also allowed for statistical purposes.

ITA Nos.2733 & 2734/PUN/2025, A.Y. 2014-15 [Q1]:

14. Since the facts and issues involved in ITA Nos.2733 & 2734/PUN/2025, A.Y. 2014-15 are identical, therefore, our decision in ITA No.2727/PUN/2025 for A.Y. 2013-14 shall apply *mutatis*

mutandis to the appeals of the assessee in ITA Nos.2733 & 2734/PUN/2025 for A.Y. 2014-15. Accordingly, the appeals of the assessee in ITA Nos.2733 & 2734/PUN/2025 for A.Y. 2014-15 are also allowed for statistical purposes.

ITA Nos.2735 to 2738/PUN/2025, A.Y. 2015-16 [Q1, Q2, & Q3]:

15. Since the facts and issues involved in ITA Nos.2735 to 2738/PUN/2025 for A.Y. 2015-16 are identical, therefore, our decision in ITA No.2727/PUN/2025 for A.Y. 2013-14 shall apply *mutatis mutandis* to the appeals of the assessee in ITA Nos.2735 to 2738/PUN/2025 for A.Y. 2015-16. Accordingly, the appeals of the assessee in ITA Nos.2735 to 2738/PUN/2025 for A.Y. 2015-16 are also allowed for statistical purposes.

16. To sum up, all the above captioned twelve appeals of the assessee are allowed for statistical purposes.

Order pronounced on this 26th day of March, 2026.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 26th March, 2026.
Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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