

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री भागचन्द, लेखा सदस्य एवं श्री कुल भारत, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI BHAGCHAND, AM AND SHRI KUL BHARAT, JM

आयकर अपील सं./ITA No. 88, 89 & 90/JP/2017  
निर्धारण वर्ष/Assessment Year : 2012-13.

M/s Genus Consortium, B-9, Ganpati Enclave, Ajmer Road, Jaipur.	बनाम Vs.	The Deputy Commissioner of Income-tax, Centralized Processing Cell-TDS, Ghaziabad
स्थायी लेखा सं./जीआईआर सं./PAN No. JPRG05549F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri K.L. Mulchandani (Advocate)  
राजस्व की ओर से / Revenue by: Shri R.A. Verma (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 01.03.2017.  
घोषणा की तारीख / Date of Pronouncement : 09 /03/2017.

आदेश / ORDER

PER SHRI KUL BHARAT, JM.

These three appeals by the assessee are directed against the separate orders of the Id. Commissioner of Income Tax (A)-5, Jaipur, dated 10.11.2016 pertaining to assessment year 2012-13. Common grounds are involved in all these appeals. Therefore, all these appeals are taken up for hearing together and are being disposed of by way of a consolidated order. The ground raised in all these appeals are common except change in figure, which reads as under :-

**ITA No. 88/JP/2017 :**

1. "On the facts and in the circumstances of the case, the Id. CIT (A) has legally and factually erred in confirming late filing fee of Rs. 17,000/- charged by Id. A.O. under section 234E of the IT Act, 1961 ignoring the fact that during the relevant period there was no such

provision in section 200A of the IT Act, 1961 for charging such late filing fee while processing the Quarterly statement filed in form No. 26Q and also without appreciating the acts discussed in written submission supported by case laws of various ITAT, Benches. Thus, confirming of the action of Ld. AO of charging of such fee while sending intimation u/s 200A is legally and factually incorrect and deserves to be deleted summarily.

2. The appellant craves to add, amend or withdraw any of the ground of appeal either before or at the time of hearing of appeal."

2. The Ld. Counsel for the assessee reiterated the submissions as made in the written brief.

2.1. On the contrary, the Ld. Departmental Representatives supported the orders of the authorities below and submitted that the issue is decided against the assessee by Hon'ble Bombay High Court vide judgment rendered in the case of Rashmikant Kundalia Vs. Union of India.

2.2. In rejoinder, the Ld. Counsel submitted that this judgment was considered by the coordinate bench and decided the issue in favour of the assessee in ITA No. 738/JP/2016.

2.3. We have heard the rival contentions, perused the material available on record and gone through the orders of the authorities below. The Hon'ble Bombay High Court has decided the issue in para 15 of the judgment as under:

*"As stated earlier, due to late submission of TDS statements means the Department is burdened with extra work which is otherwise not required if the TDS statements were furnished within the prescribed time. This fee is for the payment of the additional burden forced upon the Department. A person deducting the tax (the deductor), is allowed to file his TDS statement beyond the prescribed time provided he pays the fee as prescribed under section 234E of the Act. In other words, the late filing of the TDS return/statements is regularized upon payment of the fee as set out in section 234E. This is*

*nothing but a privilege and a special service to the deductor allowing him to file the TDS return/statements beyond the time prescribed by the Act and/or the Rules. We therefore cannot agree with the argument of the petitioners that the fee that is sought to be collected under section 234E of the Act is really nothing but a collection in the guise of a tax."*

In view of the above, we do not find any merit into the contention of the Id. Counsel for the assessee. The ground raised in the appeal is dismissed.

**ITA Nos. 89 & 90/JP/2017 :**

3. Now we take up the appeals in ITA Nos. 89 & 90/JP/2017. Since the issue involved in these appeals is exactly similar to ground raised in ITA No. 88/JP/2017 and the issue has been decided by rejecting the appeal of the assessee, we find no merit in these appeals too, therefore, taking a consistent view, both these appeals are also dismissed.

4. In the result, all the appeals of the assessee are dismissed.

Order is pronounced in the open court on 09 .03.2017.

Sd/-  
( भागचन्द )  
( BHAGCHAND)  
लेखा सदस्य/Accountant Member  
Jaipur  
Dated:- 09/03/2017.  
Pooja/

Sd/-  
( कुल भारत )  
( KUL BHARAT )  
न्यायिक सदस्य/Judicial Member

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

1. The Appellant- M/s Genus Consortium, Jaipur.
2. The Respondent –The DCIT,Ghaziabad.

3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 88,89 & 90/JP/2017)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar