

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में।
IN THE INCOME TAX APPELLATE TRIBUNAL "A"
BENCH, PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.1937/PUN/2019 for A.Y.2018-19(24Q – Q1)

ITA No.1936/PUN/2019 for A.Y.2018-19(24Q – Q2)

ITA No.1938/PUN/2019 for A.Y.2018-19

Commandant S.R.P.F. GR-VII Welfare Fund, S.R.P.F GR.VII, Daund Kurkumbh Raod, Pune – 413801. PAN: AABC 0789 Q	Vs	The Assistant Commissioner of Income Tax, CPC-TDS, Ghaziabad.
Appellant/ Assessee		Respondent /Revenue

Assessee by	None.
Revenue by	Shri S P Walimbe – DR
Date of hearing	10/06/2022
Date of pronouncement	30/06/2022

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

These Three(03) appeals filed by the same Assessee are directed against the separate orders of Id.Commissioner of Income Tax(Appeals), Pune-10 for the A.Y.2018-19(24Q-Q1), 2018-19(24Q-Q2) and 2018-19, respectively, all dated 01.10.2019. Since the facts and issue involved in these three appeals are same, therefore, all the appeals are clubbed, heard and are decided together by a consolidated order. For the sake of convenience, we take the Appeal in **ITA No.1937/PUN/2019 for A.Y.2018-19** as lead case.

2. The grounds of appeal by the assessee in ITA No.1937/PUN/2019 as under:

- “1) The learned Commissioner of Income Tax(Appeals) 10, Pune erred in confirming levy of fees U/S 234E of Income Tax Act, 1961 of Rs.11,000/-*
- 2) The Learned Commissioner of Income Tax(Appeals) 10 Pune, erred in holding the appeal against levy of fees u/s 234E for the quarter April 2017 to June 2017 is not maintainable.*
- 3) The Learned Commissioner of Income Tax(Appeals) 10 Pune, erred in not considering the facts & circumstances of late filing of Form 24Q for the quarter April 2017-June 2017 while confirming levy of fees of Rs.11,000/-*
- 4) The appellant prays that the impugned appellate order be set aside and the levy of fees u/s 234E be deleted.*
- 5) The appellant craves leave to add, amend, alter or delete any of the grounds of appeal.”*

ITA No.1937/PUN/2019 for A.Y.2018-19:

3. The issue involved in this case is that the Assistant Commissioner of Income Tax Central Processing Cell -TDS issued an intimation under section 200A of the Act for Quarter-1 of F.Y.2017-18 levying Late Fee of Rs.11,000/- u/s 234E of the Act.

3.1 Aggrieved by the said intimation the appellant assessee filed an appeal before the Commissioner of Income Tax(A)10 Pune. The Commissioner has held that the appeal is not maintainable as the

Levy of late Fee u/s 234 E is not appealable as per Section 246A. Aggrieved by the said order of the CIT(A) the assessee has filed appeal before this Tribunal.

4. The Id. Commissioner of Income Tax (Appeals) has held that the order u/s 234E is not appealable. List of appealable orders are given in Section 246A of the Act. For ready reference the Section 246A is reproduced here as under:

Appealable orders before Commissioner (Appeals).

246A. (1) Any assessee or any deductor or any collector aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

(a) an order passed by a Joint Commissioner under clause (ii) of sub-section (3) of section 115VP or an order against the assessee where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, where the assessee or the deductor or the collector objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

4.1 In this case the Appellant assessee had filed an appeal before the Id. CIT(A) against the Intimation u/s 200A of the Act. The said fact is clearly mentioned in the Form-35, Column Number 2a.

Therefore, as per section 246A of the Act, the assessee has a right to file an appeal before the Id.CIT(A) against the intimation under section 200A of the Act. Therefore, we are of the opinion that the Id.CIT(A) has erred in holding that the appeal is not maintainable. Hence, the issue is set aside to the file of the Id.CIT(A) to be decided a fresh after giving opportunity to the assessee. Accordingly, grounds raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

ITA No.1936/PUN/2019 for A.Y.2018-19(24Q – Q2) & ITA No.1938/PUN/2019 for A.Y.2018-19:

6. Both these appeals have identical facts. Therefore, our decision in **ITA No.1937/PUN/2019** will apply *mutatis-mutandis* to the appeal numbers in **ITA No.1936/PUN/2019** and **1938/PUN/2019**. Accordingly, both these appeals are allowed for statistical purpose.

7. To sum up, all Three(03) appeals raised by the assessee are allowed for statistical purpose.

Order pronounced in the open Court on 30th June, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

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

पुणे / Pune; दिनांक / Dated : 30th June, 2022/ 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
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.

