

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE “B” BENCH : PUNE
BEFORE DR. MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

I.T.A.Nos.884 to 887/PUN/2025
(Assessment Year 2013-14)

Ram Refrigeration & Electronics Pvt. Ltd., 15, Kisan Kranti Building Station Road, Ahmednagar City S.O., Nagar, Ahmed Nagar, Maharashtra. PAN : AACCR 5766 R	vs.	ITO, Ward-1, Ahmed Nagar.
(Appellant)		(Respondent)

For Assessee :	Shri Piyush Bafna, CA & Shri Aakash Parakh, Advocate
For Revenue :	Shri Manish Mehta, Addl. CIT

Date of Hearing :	15.05.2025
Date of Pronouncement :	23.05.2025

ORDER

PER BENCH:

These bunch of four appeals filed by the assessee are directed against the separate orders of Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi **["CIT(A)"]** all dated 30/01/2025 which are arising out of orders u/s. 154 of the Income Tax Act, 1961 (the **"Act"**) relating to various quarterly TDS returns processed by CPC for F.Y. 2012-13 (A.Y. 2013-14)

2. As the issues raised in these appears are common and relate to levy of late fee u/s. 234E of the Act for furnishing of TDS quarterly statements belatedly, these were heard together and are being disposed of with this common order for the sake of convenience and brevity.

3. At the outset, learned counsel for the assessee stated that the quarterly returns in question pertaining to F.Y. 2012-13 were filed and processed prior to 01/06/2015 i.e. prior to the amendment brought by Finance Act 2015 in sec.200A(1)(c) of the Act and since there was no mechanism for levy of late fee u/s. 234E of the Act in the returns processed u/s. 200A of the Act prior to 01/06/2015, the impugned late fee levied u/s. 234E of the Act deserves to be deleted. Reliance placed on the recent decision of this Tribunal in the case of *Pancharatna Buildcon Pvt. Ltd. vs. ITO* in ITA Nos. 2049-2062/ PUN/2024, dated 05/12/2024 wherein the coordinate Bench of this Tribunal adjudicating similar set of facts, decided in favour of the assessee and deleted the late fee levied u/s. 234E of the Act.

4. *Per contra*, Ld.DR, though, supported the orders of the lower authorities, but failed to controvert the contentions made by the learned counsel for the assessee by placing any binding precedents in favour of the Revenue.

5. We have heard rival contentions and gone through the material placed before us. We observe that the assessee which is a private limited company furnished quarterly returns for F.Y. 2012-13 and the same were processed prior to 01/06/2015 wherein CPC levied late fee u/s. 234E of the Act for delay in filing of the TDS quarterly returns. Admittedly, the assessee did not file any appeal against the original order u/s. 200A of the Act, but subsequently, filed rectification applications u/s. 154 of the Act stating that in view of settled judicial precedence CPC has wrongly

levied the late fee u/s. 234E, but failed to get any relief. Thereafter, the assessee filed separate appeals against the respective orders u/s. 154 of the Act against levy of late fee u/s. 234E of the Act for belatedly filing quarterly TDS returns which are subject matter of the instant bunch of appeals. We observe that similar set of facts and circumstances, where the original order u/s. 200A of the Act was not appealed before the Ld.CIT(A) but after rejection of application u/s. 154 of the Act, the appeal was preferred before the Ld.CIT(A) and after dismissal of the said appeals, the assessee preferred appeals before this Tribunal raising similar issue of charging of late fee u/s. 234E of the Act in the case of *Pancharatna Buildcon Pvt. Ltd (supra)*, this Tribunal after considering the judicial precedents, held in favour of the assessee observing as follows:-

“9. We have heard the rival arguments made by both the parties and perused the material available on record. It is an admitted fact that because of late filing of the quarterly TDS return in Form-26Q, for the period Q3 of F.Y. 2012-2013 the Dy. Director of Income Tax, Centralized Processing Cell-TDS, Vaishali, Ghaziabad has imposed late fee u/s.234E of the Act and thereby, computed interest u/s.220(2) of the Act. We find the Ld. CIT(A) upheld the action of the CPC on the ground that as per the statutory provisions inserted by the Finance Act, 2012 payment of late fee for filing TDS late is mandatory. Therefore, the demand raised for levy u/sec.234E for the period prior to 01.06.2015 is very well valid and the levy of late fee u/ sec.234E of the Act cannot be assailed.

9.1. We find under identical circumstances, the Coordinate Bench of the Tribunal in the case of Dhairyasheel Pralhad Pawar, Kolhapur vs. DCIT, TDS-CPC, Kolhapur ITA.Nos.950 to 955/ PUN./2022 dated 14.02.2023, has held that no late fee u/sec.234E can be imposed for the periods prior to 01.06.2015. The relevant observations of the Tribunal in para nos.5 and 6 are as under :

“5. We have heard the rival submissions and gone through the relevant material on record. It is seen that fee u/s.234E has been imposed by the AO for belated filing of the relevant statements. The assessment years involved in these 5 appeals are 2013-14 and 2014-15, which shows that the fee u/s.234E has been imposed for the delay in furnishing the statements for quarters prior to 01-06-2015.

6. Section 200A deals with processing of statements of tax deducted at source. Clause (c) of section 200A(1) was inserted

by the Finance Act 2015 w.e.f. 01-06-2015 providing for the levy of fee u/s.234E of the Act. In that view of the matter, such fee u/s.234E can be levied 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 interest u/s 234E can be imposed for the periods of the respective A.Ys. prior to June 1, 2015.”

9.2. We find the learned Coordinate Bench of the Tribunal in the case of *Dadasaheb Vittalrao Urhe, Pune vs. ITO, TDS, Pune* ITA.No.1286 to 1309/PUN./2023 dated 29.02.2024 under identical circumstances observed as under :

“5. We have heard the common rival contentions of both the parties; and subject to the provisions of rule 18 of Income Tax Appellate Tribunal Rules, 1963 [for short 'ITAT, Rules'] perused the material placed on records and considered the facts in the light of settled position law.

6. In the context of levy of fees for default, it shall serve to state that, a person liable to deduct any sum under the provisions of chapter XVII of the Act, is under obligation to deliver or furnish a statement u/s 200(3) of the Act within the due date prescribed therein and in the event of default such person is exposed to section 234E of the Act. Although the levy of fees u/s 234E for delay in furnishing statement has been brought into statute w.e.f. 1 July, 2012, the enabling provision of section 200A(1)(c) authorising such levy came into force w.e.f. 1" June, 2015 by Finance Act, 2015, consequently the fees levied for any default prior thereto being sine auctoritate hence unsustainable in the eyes of law. This position finds fortified by the Hon'ble High Court of Karnataka in *Fatheraj Singhvi & Ors Vs UOI* reported in 289 CTR 602 & *Sree Ayyappa Educational Charitable Trust & Anr. Vs. DCIT* (WP-618/2015). Followed by Hon'ble Kerala High Court in '*Olari Little Flower Kuries Pvt. Ltd. Vs UOI* (WA600/2017), by co-ordinate benches in '*Medical Superintendent Rural Hospital Vs DCIT* (2018) 173 ITD 575, *KD Realities Pvt. Ltd. Vs CIT* (2019)SCC Online21609, '*Permanent Magnets Ltd. Vs CIT* (2019)SCC Online 20844.”

10. Since admittedly in the instant case, the Assessing Officer/CPC-TDS has levied late fee u/sec.234E for the period prior to 01.06.2015, therefore, respectfully following the decisions of the Coordinate Benches of the Tribunal (*supra*) and in absence of any contrary material brought to our notice by the Learned DR, we set aside the order of the Ld. CIT(A) and direct the Assessing Officer-CPC to delete the late fee u/sec.234E and the consequential interest u/sec.220(2) of the Act. The grounds raised by the assessee in it's "lead" appeal ITA.No.2049/PUN./2024 are accordingly allowed.

11. In the result, ITA.No.2049/PUN./2024 filed by the assessee is allowed

12. Since facts in the remaining appeals are identical to the facts of the appeal in ITA.No.2049/PUN./2024, therefore, respectfully

following our observations in the said appeal, these appeals ITA.Nos.2050 to 2062/PUN./2024 of the assessee are allowed.

13. To sum-up, ITA.Nos.2049 to 2062/PUN./2024 of the Assessee are allowed. A copy of this common order be placed in the respective case files.”

6. From the perusal of the findings of this Tribunal and examining the facts of the instant case, we find that the decision of this Tribunal in the case of *Pancharatna Buildcon Pvt. Ltd (supra)* is squarely applicable on the facts of the instant case and the Ld.DR is unable to place any other binding precedent, we therefore, respectfully following the decision of this Tribunal in *Pancharatna Buildcon Pvt. Ltd (supra)* decide in favour of the assessee and accordingly, set aside the findings of Ld.CIT(A) and delete the impugned fee levied u/s. 234E of the Act in all the instant four appeals. Accordingly, all the grounds of appeal raised by the assessee in ITA Nos. 884 to 887/PUN/2025 are allowed.

7. In the result, all the appeals filed the Assessee are allowed.

Order pronounced in the open Court on 23.05.2025.

Sd/-
[VINAY BHAMORE]
JUDICIAL MEMBER

Sd/-
[MANISH BORAD]
ACCOUNTANT MEMBER

Pune, Dated 23rd May, 2025

vr/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Pune concerned.
4.	D.R. ITAT, “B” Bench, Pune.
5.	Guard File.

By Order

//True Copy //

Sr. Private Secretary, ITAT,
Pune Benches, Pune.