

### **Note – Fee for default in furnishing TDS / TCS statement**

Sometime back a number of instances have been brought to my notice by some clients, which relate to the levy of fee for late filing of TDS / TCS statement.

On examination of the provisions of the Income-Tax Act, 1961 (the Act), it was realized that the impugned fee has been levied under section 234E of the Act, which is rather an obscure section. Therefore, section 234E was examined in detail.

The aforesaid section 234E was inserted in the Act, vide Finance Act, 2012, with effect from 1.7.2012. For the sake of ready reference, section 234E is reproduced as follows :

***“234E. Fee for default in furnishing statements.***

- (1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.*
- (2) The amount of fee referred to in sub-section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.*
- (3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.*
- (4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.”*

From the aforesaid provisions of section 234E, it may be seen that where a person fails to deliver or cause to be delivered a statement within the time prescribed in section 200(3) or the proviso to section 206C(3) of the Act, he shall be liable to pay, by way of fee, a sum of two hundred rupees (Rs.200) for every day during which the failure continues. It may also be seen that the aforesaid amount of fee shall be paid before delivering or causing to be delivered a statement, in accordance

with section 200(3) or the proviso to section 206C(3). Besides, the aforesaid provision would come into effect from 1.7.2012.

It may also be stated in this context that there is no provision anywhere in the Act for the waiver of the aforesaid fee. Therefore, at times the aforesaid fee may place a very heavy burden on a tax deductor / collector, who fails to abide by the provisions of section 234E of the Act.

In view of the aforesaid reasons, it is advised that the aforesaid TDS / TCS statement must be filed within the stipulated time, even if certain details are not mentioned therein, for the reason that the same are not readily available at the time of furnishing the TDS / TCS statement.

The aforesaid statements may be revised thereafter and thus, a tax-deductor / collector may be able to avoid the levy of the fee for the default in timely furnishing of the aforesaid TDS / TCS statement.

This is for your perusal and guidance.

Place : Pune

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