

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'C', BANGALORE

BEFORE SHRI. N. V. VASUDEVAN, JUDICIAL MEMBER

AND

SHRI. ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

I.T.A No.654/Bang/2014
(Assessment Year : 2007-08)

Deputy Commissioner of Income-tax,
Circle -11(1), Bangalore

..Appellant

v.

M/s.Apollo Power Systems P. Ltd,
31, 1st floor, 1 st Main Road, Chamarajpet,
Bangalore 560 018
PAN : AABCA1844Q

..Respondent

Assessee by : Shri. B. Somashekar, Advocate
Revenue by : Shri. Sunil Kumar Agarwala, JCIT

Heard on : 06.08.2015

Pronounced on : 14.08.2015

ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER :

In this appeal filed by Revenue its grievance is that the CIT (A) allowed the claim of assessee u/s.36(1)(va) of the Income-tax Act, 1961 ('the Act' in short), despite remittance of employees' contribution to PF and ESI, being made after the due dates mentioned in related enactments.

02. Ld. DR submitted that the deductions made for employees' contribution to PF and ESI were remitted by the assessee after the due dates mentioned in the respective enactments. As per the Ld. DR just because these were remitted before the due date for filing the return, the disallowance not have been deleted.

03. Per contra Ld. AR submitted that Hon'ble Karnataka High Court in the case of Essae Teraoka P. Ltd. V. DCIT[ITA.489/2013, dt.04.02.2014] had held that payments effected prior to the due date of filing the returns had to be considered as made within the due dates.

05. We have perused the orders and heard the rival submissions. We find that the CIT (A) had followed the judgment of jurisdictional High Court in the case of Spectrum Consultants India P. Ltd v. CIT [(2013) 89 DTR 0274]. There also it was the claim of employees' contribution to PF and ESI under the respective Acts which were remitted beyond the period mentioned under the said statutes, but before the due dates of filing the returns. Their Lordships, following the decision in the case of CIT v. Sabari Enterprises [298 ITR 141] held that if such deductions for employees' contribution were remitted before the due date for filing the return, it had to be allowed since the due date applicable is the date for filing the return of income u/s.139 of the Act and not what is mentioned under the EPF and ESI Acts. Same view has been taken in the case of M/s. Essae Teraoka P. Ltd.(supra), wherein their Lordships had made a detailed analysis of related statutes and cases on the subject. Since the

CIT (A) had followed the judgment of jurisdictional High Court in allowing the relief, we do not find any reason to interfere with his order.

06. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 14th day of August, 2015.

Sd/-

(N. V. VASUDEVAN)
JUDICIAL MEMBER

Sd/-

(ABRAHAM P GEORGE)
ACCOUNTANT MEMBER