

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्रीएन.आर.एस. गणेशन, न्यायिकसदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos. 904 & 905/Mds/2016

निर्धारण वर्ष /Assessment Years : 2010-11 & 2011-12

Deputy Commissioner of
Income-tax,
Corporate Circle -1(1),
Chennai – 600 034.

v. M/s.Accel IT Resources Ltd.,
(Formerly Accel Academy Ltd.)
177 S F I Complex, Valluvar
Kottam High Road,
Nungambakkam,
Chennai – 600 034.

PAN : AAGCA3027Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri V.Nanda Kumar, JCIT

प्रत्यर्थीकीओरसे/Respondent by : None

सुनवाईकीतारीख/Date of Hearing : 17.08.2016

घोषणाकीतारीख/Date of Pronouncement : 23.09.2016

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the revenue are directed against the respective order of CIT(A) -1, Chennai dated 08.01.2016 and pertains to

Assessment Years 2010-11 & 2011-12. Since common issue arises for consideration in both the appeals, we heard the same together and disposing off the same by this common order.

2. No one appeared for the assessee inspite of service of notice. Therefore, we heard the learned representative for the department and proceeded to dispose off the appeal on merit. Shri V.Nanda Kumar, the learned representative for the department submitted that the only issue arises for consideration is disallowance of employees' contribution to ESI and Provident Fund. According to the learned representative for the department, the employees' contribution has to be credited to the respective funds before the due date provided under the relevant provisions of the Act. In this case, the assessee has not credited the amount within the due date specified under the relevant act. Therefore, the assessing officer disallowed a sum of Rs.29,82,013/- for the assessment year 2010-11 and Rs.20,13,732/- for the assessment year 2011-12. Therefore, the CIT(A) is not justified in allowing the claim of the assessee.

3. We have considered the submissions of the learned representative of the department and also perused the material available on record. The CIT(A) found that the payment made before the due date for filing of the return of income has to be allowed under Section 43B of the Act. Accordingly, the CIT(A) directed the Assessing Officer to verify

whether the remittances were made before filing of the return of income and if it is paid, he directed that assessing officer to delete the addition. This Tribunal is of the considered opinion that in view of proviso to Section 43B, the payment made by the assessee towards employers and employees contribution for ESI & Provident Fund has to be allowed if the same is paid before the due date for filing of the return of income under Section 139(1) of the Act. Therefore, the CIT has rightly directed the assessing officer to verify the exact date of payment and if it is paid within the due date for filing of the return of income under Section 139(1) to allow the same. Accordingly, we do not find any reason to interfere with the orders of the lower authorities and the same is confirmed.

4. In the result, both the appeals of the revenue stands dismissed.

Order pronounced on 23rd September, 2016 at Chennai.

Sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

Sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 23rd September, 2016.

sp.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT,
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.