

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : BANGALORE**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
and  
SHRI JASON P BOAZ, ACCOUNTANT MEMBER**

**ITA No.526/Bang/2015  
(Assessment year: 2011-12)**

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

Vs.

M/s.Adecco India Pvt. Ltd.  
(formerly known as Adecco Peopleone India  
P.Ltd.)  
# 2, Sai Deep, Shrinidhi,  
NAL Wind Tunnel Road, Murgesh Palya,  
Bangalore-560017. ... Respondent  
*PAN: AABCG3636QE*

Appellant by: Dr. P.K.Srihari, Addl.CIT(DR).  
Respondent by: Shri Susan Mathew, CA.

Date of hearing : 28/07/2015  
Date of pronouncement: 30/07/2015

**O R D E R**

**Per Smt. P. MADHAVI DEVI, JM:**

In this appeal, the Revenue is aggrieved by the order of the order of the CIT(A)-I, Bangalore, dated 28/01/2015 in allowing the claim of the assessee u/s 36(1)(va) of the Income-tax Act, 1961 ['Act'] by following the decision of the jurisdictional High Court in the case of *Essae Teraoka Pvt. Ltd.*, without appreciating the fact that the assessee has not remitted the employees'

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contribution towards Provident Fund and ESI within the due date specified under the Act and as such, these sums are income in the hands of the assessee in terms of section 2(24)(x) read with section 36(1)(va) of the Act.

2. Brief facts of the case are that the assessee-company filed its return of income for the relevant assessment year. During the assessment proceedings u/s 143(3), the Assessing Officer (AO) observed that the assessee has remitted the employees' contribution to PF and ESI after the due date for such remittances. AO, therefore, disallowed the same and brought it to tax.

3. Aggrieved, assessee preferred an appeal before the CIT(A) who followed the decision of the jurisdictional High Court in the case of *Essae Teraoka Pvt. Ltd.*, in ITA No.480 of 2013 dated 14/02/2014 reported in 43 Taxman.com 33 (Kar.) wherein it was held that even in respect of employees' contribution to PF and ESI, deposited beyond the due date under respective Acts but paid before the due date of filing of return u/s 139(1), the same is eligible for deduction u/s 43B of the Act. Against the relief given by the CIT(A), Revenue is in appeal before us.

4. Though the learned Departmental Representative supported the order of the AO and the learned counsel for the assessee has relied upon the order of the CIT(A) as well as the decision of the jurisdictional High Court followed by the CIT(A),

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we find that the issue is now covered in favour of the assessee by the decision of the jurisdictional High Court in the case of *Essae Teraoka Pvt. Ltd.* (cited supra) as well as in the case of *Sabari Enterprises* (298 ITR 141)(Kar). We, therefore, do not see any reason to interfere with the order of the CIT(A).

5. In the result, the revenue's appeal is dismissed.

*Pronounced in the open court on 30<sup>th</sup> July, 2015.*

sd/-  
**(Jason P Boaz)**  
**ACCOUNTANT MEMBER**  
*eksrinivasulu*

sd/-  
**(Smt. P.Madhavi Devi)**  
**JUDICIAL MEMBER**

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar  
Income-tax Appellate Tribunal  
Bangalore