

आयकर अपीलिय अधीकरण, न्यायपीठ – “D” कोलकाता,
IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH: KOLKATA
(समक्ष) Before श्री जे. सुधाकर रेड्डी, लेखा सदस्य एवं/and श्री ऐ. टी. वर्की, न्यायीक सदस्य)
[Before Shri J. Sudhakar Reddy, AM & Shri A. T. Varkey, JM]

I.T.A No.639/Kol/2015
Assessment Year: 2010-11

Assistant Commissioner of Income-tax, Circle-32, Kolkata.	Vs.	Shri Utpal Kumar Guha (PAN: ADZPG8433H)
Appellant		Respondent

Date of Hearing	25.09.2017
Date of Pronouncement	11.10.2017
For the Appellant	Shri Arindam Bhattacharjee, Addl. CIT
For the Respondent	Shri S. K. Saha, FCA

ORDER

Per Shri Aby. T. Varkey, JM:

This is an appeal filed by the revenue against the order of Ld. CIT(A)-9, Kolkata dated 05.02.2015 for AY 2010-11

2. The sole issue in this appeal of revenue is as regards to the order of CIT(A) allowing deduction in respect of PF & ESI payments without considering the provisions stipulated in section 36(1)(va) of the Income-tax Act, 1961 (hereinafter referred to as the ‘Act’). For this, revenue has raised following three grounds:

“2. That, on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.74,64,086/- made by the AO on account of employees contribution to PF&ESI not paid before the due date as per the respective Acts.

3. That, the Ld. CIT(A) has failed to appreciate that employers contribution and employees contribution to PF/ESI are treated differently under the I.T. Act.

4. That, the Ld. CIT(A) has failed to appreciate that employees contribution to PF/ESI is covered by section 36(1)(va) and not by section 43B of the I.T.Act.”

3. We have heard rival submissions and gone through the facts and circumstances of the case. Briefly stated facts are that the assessee claimed deduction of PF and ESI payments amounting to Rs.74,64,086/- being employees’ contribution u/s 43B of the Act but the AO disallowed by noting that these payments were not made within the due dates as mentioned in the respective PF/ESI Acts. Before CIT(A) assessee has given dates of remittance of the payments in issue and after taking note of the due date of the employees’ contribution to PF & ESI. The CIT(A) noted that these payments are within the due date of filing of return of

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1. APPELLANT – ACIT, Circle-32, Kolkata.
2. Respondent – Shri Utpal Kumar Guha, M/s. Star Security & Detective Agency, 84A, Park Street, Kol-17.
3. The CIT(A), Kolkata
4. CIT Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.