

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 453/VIZ/2017
(Asst. Year : 2012-13)**

ACIT, Circle-1(1),
Visakhapatnam.

vs. Mohan Prasad Pandey,
D.No. 47-10-5/1,
Dwarakanagar, Visakhapatnam.

(Appellant)

PAN No. AIVPP 9465 D
(Respondent)

Assessee by : None.

Department By : Shri P.S. Murthy – Sr.DR

Date of hearing : 20/02/2018.

Date of pronouncement : 23/02/2018.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-1, Visakhapatnam, dated 12/04/2017 for the Assessment Year 2012-13.

- 2.** The only issue involved in this appeal is relating to payment of employees contribution to PF & ESI.
- 3.** The assessee has made the payments for contribution to PF & ESI within the due date of filing of return under section 139(1)

of the Act. The Assessing Officer has disallowed the same on the ground that the payments are made belatedly.

4. On appeal, Id. CIT(A) observed that the payments are made within the due date of filing of return under section 139(1) of the Act and directed the Assessing Officer to allow all the payments made.

5. On being aggrieved, Department is in appeal before the Tribunal.

6. Id. Departmental Representative has submitted that section 43B has no application to the employees' contribution as per CBDT Circular No. 22/2015 and strongly supported the order passed by the Assessing Officer. None appeared on behalf of the assessee.

7. We have considered the submissions of Id. Departmental Representative and case-laws relied on by the Id. CIT(A).

8. The issue involved in this appeal is relating to payment of employees contribution to PF & ESI. The Assessing Officer disallowed the payments on the ground that payments are made belatedly, hence, not allowable. Before the Id. CIT(A), the assessee has relied on the following case-laws:-

- 1) ACIT v. GVK Technical Consultancy (P) Ltd. [2016 Taxpub (DT) 2285 (Hyd – Trib.)
- 2) VBC Industries Ltd., vs. DCIT (Hyd. – Trib. In ITA Nos. 143 & 144/H/2013 dated 08/05/2015)

- 3) Veljon Dension Ltd., vs. Addl. CIT (Hyd. – Trib. In ITA No. 1251/Hyd/2015 dated 16/12/2015)
- 4) CIT vs. Sabari Enterprises (2007) 298 ITR 141 (Kar.)

We find that Id. CIT(A) by following the above case-laws, directed the Assessing Officer to allow all the payments, which were made within the due date of filing of the return under section 139(1) of the Act. Therefore, we find no infirmity in the order of the Id. CIT(A). Thus, this appeal filed by the Revenue is dismissed.

9. In the result, appeal filed by the Revenue is dismissed.

Order Pronounced in open Court on this 23rd day of Feb., 2018.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated : 23rd February, 2018.

vr/-

Copy to:

1. The Assessee - Mohan Prasad Pandey, D.No. 47-10-5/1, Dwarakanagar, Visakhapatnam.
2. The Revenue – ACIT, Circle-1(1), Visakhapatnam.
3. The Pr.CIT-1, Visakhapatnam.
4. The CIT(A)-2, Visakhapatnam.
5. The D.R., Visakhapatnam.
6. Guard file.

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.