

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC", NEW DELHI**

**BEFORE SH.BHAVNESH SAINI, JUDICIAL MEMBER**

**ITA No.426/Del/2018  
[Assessment Year: 2014-15]**

Singla Forging, 491, Green Road, Shakti Nagar, Rohtak, Haryana. PAN-ABIFS2007C	<b>vs</b>	DCIT, Rohtak Circle, Rohtak.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>Appellant by</b>	Sh. Navin Gupta, Adv.	
<b>Respondent by</b>	Sh. B.R.Mishra, Sr.DR	
<b>Date of Hearing</b>	13.06.2018	
<b>Date of Pronouncement</b>	19.06.2018	

**ORDER**

**PER BHAVNESH SAINI, JUDICIAL MEMBER**

This appeal by the assessee has been directed against the order of Ld.CIT(A), Rohtak dated 11.01.2018 for AY 2014-15, challenging the addition of Rs.3,40,868/- made by the AO by making disallowance on account of late deposit of Provident Fund (in short "PF") & ESI. The AO noted the relevant details regarding payment on account of contribution of PF & ESI after the due dates at page 3 & 4 of the assessment order and made the addition of Rs.3,40,868/-. Ld.CIT(A) dismissed the appeal of the assessee.

2. After considering the rival submissions, I am of the view that no addition is permissible. Ld. Counsel for the assessee submitted that the issue is covered in favour of the assessee by the judgment of Hon'ble Punjab & Haryana High Court in the case of *CIT vs Hemla Embroidery Mills (P.) Ltd.* [2014] 366 ITR 167 (P & H) in which it was held :-

*"The second proviso to section 43B of the Income Tax Act, 1961, omitted by the Finance Act, 2003, with effect from April 1, 2004, was clarificatory in*

*nature and was to operate retrospectively. Thus, the assessee, for the assessment year 2003-04, was entitled to deduction in respect of the employer's and employee's contributions to the Employees' State Insurance and provident fund as the contributions had been deposited prior to the filing of the return under section 139(1)."*

3. He has pointed out that there was a delay in making the payments on account of PF & ESI, however, the contribution has been deposited prior to the filing of the return u/s 139(1) of the Income Tax Act, 1961. The details of the same are mentioned at page 3 & 4 of the assessment order. On going through the same, I am of the view that since payment on account of PF & ESI contributions had been made prior to filing of the return of income u/s 139(1) of the Act, therefore, the issue is covered in favour of the assessee by the judgement of Jurisdictional Punjab & Haryana High Court in the case *CIT vs Hemla Embroidery Mills (P.) Ltd. (supra)*. The orders of the authorities below are set aside and addition is deleted.

4. In the result, the appeal of the assessee is allowed.

**Order pronounced in the open court.**

**Sd/-**

**(BHAVNESH SAINI)  
JUDICIAL MEMBER**

*Date:- 19.06.2018*

*\*Amit Kumar\**

Copy forwarded to:

1. Applicant
2. Respondent
3. CIT
4. CIT(Appeals) concerned
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI