



**IN THE INCOME TAX APPELLATE TRIBUNAL,
RANCHI ' SMC' BENCH, RANCHI**

BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER

ITA No.241/Ran/2017
Assessment Year : 2014-15

M/s. Muskan Hospital & Research Centre, Ram Nagar Colony, CHAS, Bokaro Steel City, Jharkhand	Vs.	DCIT, Circle-3, Bokaro
PAN/GIR No.AAMFM 6523 E		
(Appellant)	..	(Respondent)

Assessee by : Shri Nitin PaSARI, Adv
Revenue by : Shri A.K.Mohanty, JCIT

Date of Hearing : 26/11/ 2018
Date of Pronouncement : 26/11/ 2018

ORDER

This is an appeal filed by the assessee against the order of the CIT(A), Hazaribag, dated 20.6.2017 for the assessment year 2014-15.

2. In Ground No.A & B of the appeal, the grievance of the assessee is that the CIT(A) was not was not justified in confirming the addition made towards EPF and ESIC on the ground that the same was not deposited within the due date prescribed under the respective Act..

3. Brief facts of the case are that the Assessing Officer observed that the assessee has not deposited employees' contribution to Provident Fund of Rs.6,50,138/- and employees' contribution to ESIC of Rs.1,05,924/- within the due date prescribed under the respective Act, therefore, he added the same to the total income of the assessee u/s.36(1)(va) of the Act.

4. On appeal the CIT(A) confirmed the action of Assessing Officer as there was no compliance from the side of the assessee.

5. Before me, the A.R of the assessee submitted that in view of the decision of Hon'ble Supreme Court in the case of Rajasthan State Beverages Corporation Ltd., [2017] 84 taxmann.com 185 (SC), no disallowance of deduction for employees' contribution to PF & ESIC is to be made where the amount is deposited by the assessee within the time prescribed for filing return of income u/s.139(1) of the Act.

6. The DR could not controvert the above submission of the AR of the assessee.

7. After hearing rival submissions and perusing the material on record, I find that it is not in dispute that the assessee has deposited employees' contribution to Provident Fund of Rs.6,50,138/- and employees' contribution to ESIC of Rs.1,05,924/- within the due date prescribed u/s.139(1) of the Act as is evident from page 2 and 3 of the

assessment order. The addition was made on the ground that the employees' contribution to PF and ESIC was not deposited within the time prescribed under the P.F.Act. I find that no disallowance can be made for deduction of the same u/s.36(1)(va) of the Act in view of the decision of Hon'ble Supreme Court in the case of Rajasthan State Beverages Corporation Ltd., [2017] 84 taxmann.com 185 (SC), where it was held as under :-

“ Section 43B, read with section 36(1)(va), of the Income-tax Act, 1961 - Business disallowance - Certain deductions to be allowed only on actual payment (PF and ESI contribution) - High Court by impugned order held that amount claimed on payment of PF and ESI having been deposited on or before due date of filing of returns, same could not be disallowed under section 43B or under section 36(1)(va) - Whether SLP against said impugned order was to be dismissed - Held, yes [Para 2] [In favour of assessee]”

8. Respectfully following the decision of Hon'ble Supreme Court in the case of Rajasthan State Beverages Corporation Ltd. (supra), I set aside the orders of lower authorities and delete the addition of Rs.6,50,138/- towards EPF payment and Rs.1,05,924/- towards ESI payment.

9. In Ground No.C of the appeal, the grievance of the assessee is that the interest paid on the delayed deposit also being follow –up expenses are also to be considered and allowable as deduction.



10. No arguments were advanced by Id A.R. of the assessee on this ground and, therefore, same is dismissed for want of prosecution.

11. In the result, appeal of the assessee is partly allowed

Order pronounced on 26/11/2018.

Sd/-

(N.S Saini)
ACCOUNTANT MEMBER

Ranchi; Dated 26/11/2018
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : M/s. Muskan Hospital & Research Centre, Ram Nagar Colony, CHAS, Bokaro Steel City, Jharkhand
2. The Respondent. DCIT, Circle-3, Bokaro
3. The CIT(A)- Hazaribag
4. Pr.CIT- Hazaribag
5. DR, ITAT, Ranchi
6. Guard file.
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By order

Sr. Pvt.Secretary,
ITAT, Ranchi
on tour