

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH (D), KOLKATA
[Before Shri P.M. Jagtap, Vice President & Shri S.S. Viswanethra Ravi, JM]**

I.T.A. No. 2320/Kol/2018
Assessment Year: 2007-08

DCIT, Circle – 10(1) Kolkata.....Appellant
P-7, Chowringhee Square,
Kolkata – 700 069.

M/s. Bengal Chemical & Pharmaceuticals Ltd.....Respondent
6, Ganesh Chandra Avenue,
Kolkata – 700 013.
[PAN: AABCB 5107 F]

Appearances by:

Shri Radhey Shyam, CIT, DR appearing on behalf of the Revenue.
Shri Harshvardhan Bhardwaj, FCA appearing on behalf of the Assessee.

Date of concluding the hearing : April 11, 2019

Date of pronouncing the order : April 11, 2019

ORDER

Per P.M. Jagtap, Vice President (KZ)

This appeal is preferred by the revenue against the order of Ld. CIT(A) – 10, Kolkata dated 28th August, 2018 and the solitary ground raised therein by the Revenue reads as under:

“That on the fact and in the circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs. 81,47,560/- u/s 36(1)(va) r.w.s. 2(24)(x) of the Act as the assessee company during the year deposited employee’s contribution towards PF amounting to Rs. 81,47,560/- after due date”

2. We have heard the arguments of both the sides and also perused the relevant material available on record. As agreed by the learned representatives of both the sides, the solitary issue involved in this appeal of the Revenue is squarely covered in favour of the assessee inter alia by the decision of Hon’ble Kolkata High Court in the case of CIT vs Vijay Shree Ltd. (ITAT No. 245 of 2011, GA No. 2607 of 2011) wherein it was held that no disallowance on account of

belated payment of employees contribution towards ESI and PF made after the due dates prescribed in the relevant legislation but before the due date of filing of the return of income can be made. Respectfully following the said decision of the Hon'ble Jurisdictional High Court, we uphold the impugned order of the Ld. CIT(A) giving relief to the assessee on this issue and dismiss the appeal filed by the Revenue.

3. In the result, the appeal of the Revenue is dismissed.

Order Pronounced in the Open Court on 11th April, 2019.

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

Sd/-
(P.M. Jagtap)
VICE PRESIDENT

Dated: 11/04/2019

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Bengal Chemical & Pharmaceuticals Ltd., 6, Ganesh Chandra Avenue, Kolkata – 700 013.
2. DCIT, Circle – 10(1), Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Assistant Registrar / H.O.O.
ITAT, Kolkata