

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 481/Bang/2019
Assessment Year : 2015-16

M/s. IC India Private Limited, No. 565, V Square, 30 <sup>th</sup> Main Road, SY No. 17, Kattariguppe, Bangalore – 560 085. <b>PAN: AADCI2780H</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 3 (1) (1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Karthik N, CA
Revenue by	:	Dr. P.V. Pradeep Kumar, Addl. CIT (DR)

Date of hearing	:	03.07.2019
Date of Pronouncement	:	05.07.2019

**ORDER**

*Per Shri A.K. Garodia, Accountant Member*

This appeal is filed by the assessee and the same is directed against the order of Id. CIT(A)-3, Bangalore dated 16.01.2019 for Assessment Year 2015-16.

2. The grounds raised by the assessee are as under.

- “1. The order passed by the learned CIT (A) to the extent prejudicial to the appellant is bad in law and liable to be quashed.*
- 2. The CIT (A) has erred in upholding the Order of the DCIT 3(1)(1) by disallowing the deduction towards Contractors' Benevolent Fund (CBF), a Statutory Business Expenditure on the ground that it is a Charitable Donation u/s. 40a.*
- 3. The learned CIT (A) has erred in confirming the levy of interest under section 234B of the Act on the amount so disallowed.”*

3. In course of hearing, it was submitted by Id. AR of assessee that as per para no. 4.3 of his order, it is held by Id. CIT(A) that assessee has not produced any documents to show that 0.1% deduction towards Contractor Welfare fund was also in the nature of cess or levy imposed by the Government. He

submitted that on pages 266 to 275 of the paper book is the copy of the Proceedings of the Govt of Karnataka (Public Works, CAD & Electricity Department) requiring the departments to deduct amounts towards Contractors beneficiary fund from the amounts payable to PWD Contractors. He submitted that this document could not be produced before Id. CIT(A) as the same was not available with the assessee at that point of time. The assessee has procured the same afterwards. He submitted that this additional evidence should be admitted because it goes to the root of the matter and the matter may be restored back to the file of CIT(A) for a fresh decision in the light of this additional evidence. The Id. DR of revenue supported the order of CIT(A).

4. We have considered the rival submissions. We find that as per para 4.3 of his order, Id. CIT(A) has decided the issue against the assessee on this basis that the assessee has not produced any document to show that 0.1% deduction towards Contractor Welfare fund is in the nature of cess or levy imposed by the Government. Now the assessee has produced on record this additional evidence and it has been submitted before us that para 9 of this is relevant and applicable and in the interest of justice, we admit the additional evidence and restore the matter back to the file of CIT(A) for fresh decision in the light of this additional evidence brought on record by the assessee. We want to make it clear that we do not make any comment about the allowability of deduction claimed by the assessee and Id. CIT(A) should decide the matter as per law in the light of this additional evidence.
5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-  
(PAVAN KUMAR GADALE)  
Judicial Member

Sd/-  
(ARUN KUMAR GARODIA)  
Accountant Member

Bangalore,  
Dated, the 05<sup>th</sup> July, 2019.  
/MS/

Copy to:

1. Appellant
2. Respondent
3. CIT

4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Bangalore.