

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH : CHENNAI

श्री इंटूरी रामा राव, लेखा सदस्य एवं
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

[BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

आयकर अपील सं./I.T.A. No.2721/CHNY/2019.
निर्धारण वर्ष /Assessment year : 2018-2019.

Shri. Natesan Muthu,
23, SIDCO Industrial Estate,
Ambattur
Chennai 600 098.

Vs. The Deputy Commissioner of
Income Tax,
CPC, Bangalore

[PAN AAIPM 4020E]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. M. Karunakaran, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri. J. Pavithran Kumar, JCIT.

सुनवाई की तारीख/Date of Hearing : 11-12-2019
घोषणा की तारीख /Date of Pronouncement : 12-12-2019

आदेश / ORDER

PER INTURI RAMA RAO, ACCOUNTANT MEMBER

This is an appeal filed by the assessee directed against the order of the Commissioner of Income Tax (Appeals)-7, Chennai ('CIT(A)' for short) dated 25.07.2019 for the Assessment Year (AY) 2018-2019.

2. The Assessee raised the following grounds of appeal:

'1. The learned Commissioner of Income-tax (Appeals) erred in sustaining the adjustment of Rs. 1,61,900/- made by CPC while processing the return under section 143(1).

2. The appellant submits that the adjustment of Rs. 1,61,900 represent belated payment of employees' contribution of ESI & PF which were remitted during the financial year itself and much before the due date of filing of the return and therefore the CPC is not correct in adding the same to the total income.

3. The learned Commissioner of Income-tax (Appeals) is not correct in relying on the single Judge of the Madras High Court in the Writ Petition in the case of Unifac Management Services (India) Pvt Ltd. when the order was modified in the Writ Appeal filed in the very same case.

4. The appellant submits that the belated payment of ESI and PF representing employees' contribution before the due date of filing of the return cannot be disallowed in the light of the decision of the Madras High Court in the case of Industrial Security & Intelligence India P Ltd. dated 24/7/2015.

5. The appellant therefore submits that the addition of Rs. 1,61,900/- made by the CPC may be deleted and the appeal may be allowed".

3. The brief facts of the case are as under:

The appellant is an individual. The return of income for the AY 2018-19 was filed on 20.12.2018 admitting total income of ₹48,58,310/-. The return of income was processed u/s.143(1) of the Income Tax Act, 1961 (in short "the Act") declaring total income of

₹50,20,210/-. While doing so, the Assessing Officer made prime facie adjustment of ₹1,61,900/- being the belated amount of remittance of PF/ESI.

4. Being aggrieved by the above additions, the assessee preferred an appeal before Id. CIT(A), who vide impugned order confirmed the action of the Assessing Officer by placing reliance on the decision of Hon'ble Madras High Court in the case of *Unifac Managemnt Services (India) Pvt Ltd vs. DCIT, (2018) 100 taxmann.com 244*.

5. Being aggrieved, the appellant is in appeal before us in the present appeal.

6. We heard the rival submissions and perused the material on record. The Hon'ble Jurisdictional High Court in the case of *CIT vs. M/s. Industrial Security & Intelligence India Pvt. Ltd in TC Nos.585 & 586 of 2015, dated 24.07.2015*, had held that when EPF/ESI contribution are made within due date of filing the return, the same should be allowed as deduction. Therefore, we restore this issue back to the file of the Assessing Officer to examine whether contribution towards EPF/ESI are made within the due date of filing of return, if so, the same should be allowed as deduction.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced on 12th day of December, 2019, at Chennai.

Sd/-
(धुव्वुरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(इंटूरी रामा राव)
(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated: 12th December, 2019.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- | | | |
|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |