

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' A ' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

**ITA No.67/Hyd/2020
(Assessment Year : 2017-18)**

M/s. Prasad Media Corporation Pvt. Ltd.,
Hyderabad.
PAN AACCP1745NAppellant.

Vs.

Asst. Commissioner of Income Tax,
Circle 14(1), Hyderabad. ..Respondent.

Appellant By : None.

Respondent By : Shri Rohit Majumdar (D.R)

Date of Hearing : 10.05.2021.

Date of Pronouncement : 24.06.2021.

O R D E R

Per L.P.Sahu, A.M. :

This is an appeal filed by the assessee against the order of Commissioner of Income Tax (Appeals)-6, Hyderabad dt.22.11.2019 passed in case No.10008/2019-20/CIT(A)-6 on the following effective grounds of appeal :

“1. The order of the learned CIT (Appeals) is against law and against weight of evidence.

2. The learned CIT (Appeals) erred in confirming the disallowance of Rs.14,48,299 made in the intimation u/s. 143(1) in respect of employees’s contribution towards provident fund.

3. The learned CIT (Appeals) erred in confirming the addition of Employees contribution to provident fund despite the same have been remitted before the due date for filing of the return u/s. 43B.”

2. The sole grievance raised by the assessee in this appeal is disallowance of employees contribution towards provident fund not deposited within the due date as per stipulated time with respective Acts. The return was assessed u/s. 143(1) on 16.3.2019. Accordingly, the disallowance was made of Rs.14,48,299 u/s. 36(1)(va) r.w.s. 2(24)(x) and other disallowances. Against the processing of Return u/s. 143(1) the assessee filed an appeal before the CIT(A). On appeal, the CIT(A) partly allowed the assessee's appeal.

3. The learned Authorised Representative submitted that as per the Finance Act, 2021, this

issue has been settled and applies with retrospective effect.

4. On the other hand, the learned Departmental Representative relied on the orders of the authorities below.

5. After hearing both the sides and perusal the orders of authorities below, it was observed that the assessee had not disputed that employees contribution towards provident fund was not paid within the due date as per the respective dates but the assessee has paid the entire due amount before filing of the Return of Income as per the grounds taken by the assessee. The similar issue has been decided by the co-ordinate bench of the Tribunal vide order dt.19.5.2021 in ITA 2197/Hyd/2017 and the relevant portion reads as under :

“ 5. Next comes the latter issue of Section 43B disallowance of Rs.8,11,648/- pertaining to employees provident fund. It is not in dispute that learned lower authorities held that the same had to be deposited before the due date prescribed in the corresponding statute than the due date for filing Section 139(1) return. The Revenue's case in tune thereof relies on Section 36(va) read with explanation thereto that it is not Section 43B but the former provision which is

applicable in such an instance. We find no merit in the Revenue's foregoing stand. We take note of the explanatory memorandum to the Finance Act, 2021 proposing amendment in both Section 36(va) as well as Section 43B by inserting corresponding Explanations that although the impugned employees provident fund comes under the former provision only, the same is applicable from 01-04-2021 onwards. Meaning thereby that the legislature itself has condoned the impugned default before 01-04-2021. We thus delete the impugned employees provident fund disallowance of Rs.8,11,648/- for this precise reason alone. Necessary computation to follow as per law."

The present case on hand is identical as the case law cited as above. Therefore respectfully following the above decision of the co-ordinate bench (supra), we allow the appeal of the assessee. Necessary computation to follow as per law.

6. In the result, the assessee's appeal is allowed.

Order pronounced in the open court on 24th June,2021.

Sd/-

(S.S. GODARA)
Judicial Member

Sd/-

(L.P. SAHU)
Accountant Member

Hyderabad, Dt.24.06.2021.

* Reddy gp

Copy to :

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3.	Pr. C I T-6, Hyderabad.
4.	CIT(Appeals)-6, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.