

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No.606/HYD/2020

Assessment Year: 2018-19

Vivimed Life Sciences DCIT, Circle-3(1),
Private Limited, Vs Hyderabad
[PAN: AAFCV7728J]

(Appellant)

(Respondent)

For Assessee : Shri P.Murali Mohana Rao, AR
For Revenue : Shri A.Venkata Rao, DR

Date of Hearing : 18-08-2021

Date of Pronouncement : 21-09-2021

ORDER

PER S.S.GODARA, J.M. :

This assessee's appeal for AY.2018-19 arises from the CIT(A)-3, Hyderabad's order dated 11-09-2020 passed in case No.1112 / 2019-20 / B3 / CIT(A)-3, involving proceedings u/s. 143(1) of the Income Tax Act, 1961 [in short, 'the Act'].

2. Coming to the sole substantive issue of ESI/PF disallowance of Rs.29,50,337/- made in both the lower proceedings, the assessee's and Revenue's pleas before us are that the same has been paid before the due date of filing Sec.139(1) return and after the due date prescribed in the corresponding statute(s); respectively. We notice in this factual

backdrop that the legislature has not only incorporated necessary amendment in Sections 36(1)(va) as well as u/s. 43B vide Finance Act, 2021 to this effect but also the CBDT has issued Memorandum of Explanation that the same applies w.e.f. 01-04-2021 only. It is further not an issue that the foregoing legislative amendments have proposed employers' contribution/disallowance u/s.43B as against employee's contribution u/s.36(va) of the Act; respectively. However, keeping in mind the fact that the same has been clarified to be applicable only with prospective effect from 01-04-2021 only, we hold that the impugned disallowance is not sustainable in view of all these latest developments. The impugned ESI/PF disallowance is deleted therefore.

3. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 21st September, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Hyderabad,
Dated: 21-09-2021

Copy to :

1. Vivimed Life Sciences Private Limited, 201, Devavrata, Sector-17, Vashi, Navi Mumbai. Maharashtra.

2. DCIT, Circle-3(1), Hyderabad.

3. CIT(Appeals)-3, Hyderabad.

4. Pr. CIT-3, Hyderabad.

5. D.R. ITAT, Hyderabad.

6. Guard File.