

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD
(THROUGH VIDEO CONFERENCE)**

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER

I.T.A. No.342/HYD/2021

Assessment Year: 2018-19

Santosh Kankani, ITO, Ward-7(2),
HYDERABAD Vs HYDERABAD
[PAN: AKGPK3403R]

(Appellant)

(Respondent)

For Assessee : Shri Kumar Pal Tated, AR
For Revenue : Smt.N.Swapna, DR

Date of Hearing : 09-09-2021

Date of Pronouncement : 07-10-2021

ORDER

This assessee's appeal for AY.2018-19 arises from the CIT(A)-3, Hyderabad's order dated 07-09-2020 passed in case No.10318 / 2019-20 / B2 / CIT(A)-3, involving proceedings u/s. 143(1) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. It transpires at the outset that this assessee's instant appeal suffers from 281 days delay stated to be attributable to the reason(s) beyond his control as per condonation petition/affidavit. No rebuttal has come from the departmental side. The impugned delay is condoned therefore.

3. Coming to the sole substantive issue of ESI/PF disallowance of Rs.19,47,635/- made in both the lower proceedings, the assessee's and Revenue's pleas before me

inter alia are that the same had been paid before the due date of filing Sec.139(1) return and after the due date prescribed in the corresponding statute(s); respectively. I 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, I hold that the impugned disallowance is not sustainable in view of all these latest developments. The same is deleted therefore.

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

Order pronounced in the open court on 7th October, 2021

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

Hyderabad,
Dated: 07-10-2021

TNMM

Copy to :

1.Santosh Kankani, 14-6-211/A, Nagarkhana Begum Bazar, Hyderabad.

2.ITO, Ward-7(2), Hyderabad.

3.CIT(Appeals)-3, Hyderabad.

4.Pr.CIT-3, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.