

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

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

ITA No.	A.Y.	Appellant	Respondent
714/Hyd/2020	2018-19	Sri Navdurga Textile Processors Pvt. Ltd., Hyderabad [PAN: AADCS4002N]	Deputy Commissioner of Income Tax, Circle-3(2), Hyderabad
715/Hyd/2020	2019-20		

For Assessee : Shri Shikha Mantri, AR
For Revenue : Shri Rohit Mujumdar, DR

Date of Hearing : 29-09-2021
Date of Pronouncement : 22-10-2021

ORDER

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

These assessee's two appeals for AYs.2018-19 & 2019-20 arise from the CIT(A)-3, Hyderabad's order dated 21-09-2020 passed in case Nos.10006 & 10032 / 2020-21 / C / CIT(A)-3, involving proceedings u/s. 143(1) of the Income Tax Act, 1961 [in short, 'the Act']; respectively.

Heard both the parties. Case files perused.

2. It transpires at the outset that the assessee's instant two appeals suffer from 03 days delay stated to be attributable to the reason(s) beyond its control as per condonation petition/affidavit. No rebuttal has come from the departmental side. The impugned delay is condoned therefore.

3. Coming to the former substantive issue raised herein of ESI/PF disallowance of Rs.71,242/- and Rs.2,57,522/- assessment year-wise; respectively 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 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 in both these assessment years therefore.

The assessee's identical latter ground of short credit of TDS credit of Rs.88,926/- and Rs.88,099/-; respectively is restored to the assessing authority for necessary verification.

4. No other ground has been pressed before us.
5. These two assessee's appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 22nd October, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 22-10-2021
TNMM

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

Copy to :

1.Sri Navdurga Textile Processors Pvt. Limited, 21-1-727/728, Shop No.208/A, B.G.Market, Rikab Gunj, Hyderabad.

2.The Deputy Commissioner of Income Tax, Circle-3(2), Hyderabad.

3.CIT(Appeals)-3, Hyderabad.

4.Pr.CIT-1, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.