

**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**

I.T.A. Nos.738 & 739/HYD/2020

Assessment Years: 2018-19 & 2019-20

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| Sri Navdurga Billets Private Limited, HYDERABAD [PAN: AALCS1909A] | Vs | Deputy Commissioner of Income Tax, Circle-3(2), HYDERABAD |
| (Appellant) | | (Respondent) |

For Assessee : Shri Siddharth Mantri &
Ms.Shikha Mantri, ARs

For Revenue : Shri Waseem Ur Rehman, DR

Date of Hearing : 04-10-2021

Date of Pronouncement : 18-11-2021

ORDER

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

These two assessee's appeals for AYs.2018-19 & 2019-20 arise from the CIT(A)-3, Hyderabad's order(s) dated 22-09-2020 passed in case Nos.10042 & 10045 / 2020-21 / C / CIT(A)-3, involving proceedings u/s.154 of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case files perused.

2. It transpires at the outset that both these assessee's appeals suffer from delay of nine days, 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. The assessee's sole identical issue pressed in both of these appeals challenges correctness of the lower authorities' action making ESI/PF disallowance of Rs.1,37,021/- and Rs.1,68,969/-, assessment year-wise; respectively u/s.36(va) r.w.s.43B of the Act. 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 statutes; 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. This identical disallowance(s) stands deleted accordingly.

4. These assessee's twin 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 18th November, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

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

Hyderabad, Dated: 18-11-2021

Copy to :

1.Sri Navdurga Billets Private Limited, 21-1-686, Rikab Gunj, Hyderabad.

2.The Dy.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.