

**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. No.414/HYD/2021

Assessment Year: 2019-20

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| Memsahab Exclusive, HYDERABAD [PAN: ABCFM2730N] | Vs | Income Tax Officer, Ward-11(1), HYDERABAD |
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(Appellant)

(Respondent)

For Assessee : Shri Bhupesh Kumar Dand, AR
For Revenue : Shri Rohit Mujumdar, DR

Date of Hearing : 23-11-2021

Date of Pronouncement : 29-11-2021

ORDER

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

This assessee's appeal for AY.2019-20 arises from the from the National Faceless Appeal Centre (NFAC), Delhi's order dated 18-08-2021 passed in DIN & Order No.ITBA/NFAC/S/250/2021-22/1034948339(1), involving proceedings u/s.250 of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive issue raised herein of Section 36(1)(va) ESI/PF disallowance of Rs.1,43,065/- 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 therefore.

No other ground has been pressed before us.

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

Order pronounced in the open court on 29th November, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

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

Hyderabad,
Dated: 29-11-2021

Copy to :

1.Memsaheb Exclusive, 16-2-116/B, Ground Floor, 3rd Floor, Dharmareddy Phase-11, Hydernagar, Kukatpally, Hyderabad.

2.Income Tax Officer, Ward-11(1), Hyderabad.

3.CIT(Appeals)-NFAC, Delhi.

4.D.R. ITAT, Hyderabad.

5.Guard File.