

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ B ‘ Bench, Hyderabad
(Through Video Conferencing)
Before Shri S.S. Godara, Judicial Member
AND
Shri Laxmi Prasad Sahu, Accountant Member

ITA No.374/Hyd/2021		
Assessment Year: 2019-20		
Chak Rader Farm Equipments Private Limited, Hyderabad. PAN : AABCC5121G.	Vs.	DCIT, Circle 1(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri Kiran Manohar.	
Revenue by:	Smt. Matta Padma.	
Date of hearing:	08.12.2021	
Date of pronouncement:	09.12.2021	

ORDER

PER S.S. GODARA :

This assessee's appeal for A.Y.2019-20 arises from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi's order dated 05.08.2021 in case No.ITBA/NFAC/S/250/2021-22/1034648788(1) involving proceedings under section 250 of Income Tax Act, 1961 (in short, "the Act").

2. Coming to the sole substantive issue of ESI/PF disallowance of Rs.3,70,758/- made in both the lower proceedings, the assessee's and Revenue's plea(s) before us 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 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. 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 9th December, 2021.

Sd/- (LAXMI PRASAD SAHU) ACCOUNTANT MEMBER	Sd/- (S.S. GODARA) JUDICIAL MEMBER
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Hyderabad, dated 9th December, 2021.

TYNM/sps

Copy to:

S.No	Addresses
1	Chak Rader Farm Equipments Private Limited, 11-7-265, Potluri House, HUDA Complex, Saroornagar, Hyderabad, Telangana – 500035.
2	The DCIT, Circle 1(2), IT Towers, Red Hills, Hyderabad.
3	Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.
4	DR, ITAT Hyderabad Benches
5	Guard File.

By Order