

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ A ‘ Bench, Hyderabad
(Through Video Conferencing)

Before
Shri A. Mohan Alankamony, Accountant Member
AND
Shri S.S. Godara, Judicial Member

ITA Nos.427 & 428/Hyd/2021		
Assessment Years : 2018-19 & 2019-20		
M/s. Placebo Gears and Transmissions, Hyderabad. PAN : AA EFP5901D.	Vs.	Income Tax Officer, Ward 11(5), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri S. Phanindra (A.R.)	
Revenue by:	Sri T. Sunil Goutam (D.R.)	
Date of hearing:	08/12/2021	
Date of pronouncement:	09/12/2021	

ORDER

Per S. S. Godara, J.M.

These assessee's appeals for AYs. 2018-19 and 2019-20 arises from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi's orders both dated 31.08.2021 in case Nos. ITBA/NFAC/S/250/2021-22/1035187384(1) and ITBA/NFAC/S/250/2021-22/1035187408(1) involving proceedings under section 250 of Income Tax Act, 1961 (in short, "the Act").

Heard both the parties. Case files perused.

2. Coming to the sole substantive issue of ESI/PF disallowance(s) of Rs.10,43,859/- and Rs.7,68,501/- made in both the lower proceedings, the assessee's and Revenue's plea 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(s) are not sustainable in view of all these latest developments. The impugned ESI/PF disallowance(s) are deleted therefore.

3. These assessee's appeals are allowed in above terms.

Order pronounced in the Open Court on 9th December, 2021.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

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

Hyderabad, dated 9th December, 2021.

* *Reddy gp, sps*

Copy to:

S.No	Addresses
1	M/s. Placebo Gears & Transmissions, 5-35-103, Prashanth Nagar, I.E., Kukatpally, Hyderabad-500 072
2	ITO, Ward 11(5), Hyderabad.
3	Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order