

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' B ' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
SHRI L. P. SAHU, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

ITA No.484/Hyd/2021 (Assessment Year : 2018-19)		
M/s. Jai Balajee Security Services Pvt. Ltd., Hyderabad. PAN AABCJ 5273C	Vs.	Ass. Commissioner of Income Tax, Circle 1(1), Tirupathi.
Appellant		Respondent

Appellant By : Shri Sashank Dundu, Adv.

Respondent By : Shri Rohit Majumdar (D.R.)

Date of Hearing : 13.01.2022.

Date of Pronouncement : 19.01.2022.

ORDER

Per Shri S.S. Godara, J.M. :

This assessee's appeal for Asst. Year 2018-19 arises from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi's order dt.06.10.2021 passed in case No.ITBA/NFAC/S/250/2021-22/1036184751(1) in proceedings under Section 250 of Income Tax Act, 1961 ('the Act').

Heard both parties. Case file perused.

2. Coming to the sole substantive issue of ESI/PF disallowance of Rs.4,48,20,290/- made in both the lower proceedings, assessee's and Revenue's rival stands adopted

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 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.

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

Order pronounced in the open court on 19th Jan.,2022.

Sd/-

(L.P. SAHU)
Accountant Member

Sd/-

(S.S. GODARA)
Judicial Member

Hyderabad, Dt.19.01.2022.

* Reddy gp

Copy to :

1.	M/s. Jai Balajee Security Services Pvt. Ltd., No.20-3-1/12A, Sivajyothinagar, Tirupathi, Chittoor.
2.	ACIT, Circle 1(1), Hyderabad.
3.	Pr. C I T Hyderabad.
4.	CIT(Appeals)
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.