

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 648/CHNY/2020

निर्धारण वर्ष /Assessment Year: 2018-19

The DCIT,
Circle-1(1),
No.44, Williams Road,
Cantonment,
Trichy – 620 001.

(अपीलार्थी/Appellant)

M/s. First Man Management
v. **Services Pvt. Ltd.,**
No.41, Defence Officer Colony,
Ekkattuthangal,
Chennai – 600 032.

PAN: AABCF 2938E

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri T. Vasanthan, CIT
: Shri V. Alagappan, C.A.

सुनवाई की तारीख/Date of Hearing

: 12.01.2022

घोषणा की तारीख/Date of Pronouncement

: 21.01.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the Revenue is arising out of order of the Commissioner of Income Tax (Appeals)-1, Trichy in ITA No.137/2019-20/CIT(A)-1/TRY dated 17.03.2020. The return of income was processed and intimation u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') was issued by DCIT, CPC, Bangalore for the assessment year 2018-19 vide intimation dated 17.10.2019.

2. The only issue in this appeal of Revenue is against the order of CIT(A) directing to delete disallowance of late payment of employees' contribution to PF u/s.36(1)(va) of the Act. For this Revenue has raised various grounds which we need not to reproduce.

3. Brief facts are that the assessee filed its return of income along with audit report in Form 3CA & 3CD on 29.10.2018 for the assessment year 2018-19. This return was processed by CPC, Bangalore and intimation u/s.143(1) of the Act was issued on 17.10.2019, wherein disallowance of remittance of Provident Fund to the extent of Rs.3,45,47,641/- was made. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) directed the AO to delete disallowance by observing in Para 4.2 & 4.3 as under:-

“4.2 Further attention is drawn to latest ITR in which Hon'ble Supreme Court has upheld the decision of Rajasthan High Court (in favour of assessee) on the similar issue of payment of employee contribution delayed due before filing return of income in the case of CIT vs State Bank of Bikaner & Jaipur and CIT vs. Jaipur Vidyut Vitaram Nigam Ltd. 363 ITR, page 70. SLP by revenue against this decision has been dismissed by Hon'ble Supreme Court on 26.04.2019 as per report published in 219 ITR page 9 in reports from Supreme Court.

4.3 Following the above said facts of the case, the appeal of assessee is ALLOWED and CPC is directed to rectify any assessment made u/s.143(1) of IT Act and not to add back or disallow any payment made on account of EPF as long as the payments have been made before due date of filing return of income.”

Aggrieved, now Revenue is in appeal against the order of CIT(A).

4. We have heard rival contentions and gone through facts and circumstances of the case. Admittedly, these payments are made within the due date of filling of return of income by the assessee and this fact has not been denied by the Id. Senior DR. Once the payments were made within due date of filing of return of income being payment of PF, no disallowance can be made in view of the decision of Hon'ble Madras High Court in the case of CIT vs. Industrial Security and Intelligence India Pvt. Ltd., in TCA 585/2015, order dated 24th July, 2015. In view of the decision of Hon'ble Madras High Court, we confirm the order of CIT(A) and this appeal of Revenue is dismissed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 21st January, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 21st January, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |