

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

Before Shri S.S. Godara, Judicial Member
AND
Shri Inturi Rama Rao, Accountant Member

ITA No.11/Hyd/2022		
Assessment Year: 2019-20		
Amulya Ratan Varma, Hyderabad. PAN : ABDPV3574G.	Vs.	The Income Tax Officer, Ward 15(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Sri M.V. Anil Kumar and Ms. C. S. Sree Lekha.
Revenue by:		Shri T. Sunil Goutam
Date of hearing:		03.03.2022
Date of pronouncement:		04.03.2022

ORDER

Per S. S. Godara, J.M.

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 01.10.2021 in case No.ITBA/NFAC/S/250/2021-22/1036104462(1) involving proceedings under section 143(1) of Income Tax Act, 1961 (in short, "the Act").

Heard both the parties. Case file perused.

2. We notice at the outset that assessee's instant appeal suffers from 44 days delay in filing. Learned counsel submitted that due to the outbreak of pandemic covid 19 unable to get the documents from the department which caused the impugned delay in filing of the instant appeal. Case law Collector Land Acquisition Vs. Mst. Katiji & others (1987) AIR 1353 (SC) and University of Delhi Vs. Union of India in Civil Appeal No.9488 and 9489/2019 dt.17.12.2019, hold that such a delay; supported by cogent reasons, deserves to be condoned so as to make way for the cause of substantial justice. We accordingly hold that assessee's impugned delay of 44 days is neither intentional nor deliberate but due to the circumstances beyond his control. The same stands condoned. Case is now taken up for adjudication on merits therefore.

3. Coming to the sole substantive issue of ESI/PF disallowance of Rs.53,82,355/- 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. 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, 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 4th March, 2022.

Sd/- (INTURI RAMA RAO) ACCOUNTANT MEMBER	Sd/- (S.S. GODARA) JUDICIAL MEMBER
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Hyderabad, dated 4th March, 2022.

TYNM/sps

Copy to:

S.No	Addresses
1	Amulya Ratan Varma, C/o. M. Anandam & Co., Chartered Accountants, Flat No.7A, Surya Towers, S.P. Road, Hyderabad. 500003.
2	The Income Tax Officer, Ward 15(1), Hyderabad.
3	Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order