

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.9/Hyd/2022		
Assessment Year: 2019-20		
Mr. Ravindar Narani, Hyderabad. PAN : ADLPN5039J.	Vs.	The Income Tax Officer, Ward 9(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri A. Srinivas.	
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 16.12.2021 in case No.ITBA/NFAC/S/250/2021-22/1037860045(1) involving proceedings under section 143(1) of Income Tax Act, 1961 (in short, "the Act").

Heard both the parties. Case file perused.

2. Coming to the sole substantive issue of ESI/PF disallowance of Rs.23,11,570/- 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.

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

Order pronounced in the Open Court on 04th March, 2022.

Sd/- (INTURI RAMA RAO) ACCOUNTANT MEMBER	Sd/- (S.S. GODARA) JUDICIAL MEMBER
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Hyderabad, dated 04th March, 2022.

TYNM/sps

Copy to:

S.No	Addresses
1	Mr. Ravindar Narani, H.No.3-12-92/157, Plot No.157 Rock Town Colony, Mansoorabad, L.B.Nagar, Hyderabad.
2	The ITO, Ward 9(1), Hyderabad.
3	Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order