

**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.29/Hyd/2022 (Assessment Year : 2019-20)		
M/s. Nexwave Talent Manatgement Solutions Pvt. Ltd., Hyderabad. PAN AAMCS 2760A	Vs.	Asst. Director of Income Tax, CPC, Bangalore.
Appellant		Respondent

Appellant By : None.

Respondent By : Shri Rajendra Kumar (D.R.)

Date of Hearing : 10.03.2022.

Date of Pronouncement : 15.03.2022.

O R D E R

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

This assessee's appeal for Asst. Year 2019-20 arises from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi's order dt.23.12.2021 passed in case No.ITBA/NFAC/S/250/2021-22/1038062162(1) in proceedings under Section 143(1) of Income Tax Act, 1961 ('the Act').

Case called twice. None appeared at assessee's behest. Heard learned department representative. We proceed to hear exparte.

2. Coming to the sole substantive issue of ESI/PF disallowance of Rs.55,84,180/- 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. These assessee's appeal is allowed in above terms.

Order pronounced in the open court on 15th Mar.,2022.

Sd/-

(L.P. SAHU)

Accountant Member
Hyderabad, Dt. 15.03.2022.

Sd/-

(S.S. GODARA)

Judicial Member

* Reddy gp

Copy to :

1.	M/s. Nexwave Talent Management Solutions Pvt. Ltd., Plot No.1-89/9, Flat No.1A, First Floor, Rama Classic Apartments, Plot No.9, Shilpy Valley, Gaffor Nagar, Madhapur, Hyderabad-500 081.
2.	Asst. Director of Income Tax, CPC, Bangalore./DCIT, Circle 5(1), (erstwhile 16), Hyderabad.
3.	CIT(Appeals), NFAC, Delhi.
4.	DR, ITAT, Hyderabad.
5.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.