

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” “B” BENCH, BENGALURU**

Before Shri B.R. Baskaran, Accountant Member

ITA No. 651/Bang/2021
(Assessment Year: 2018-19)

Shri Padagouda Hanamanthgouda Patil Amargol, Holealur Ron Taluk Gadag District 582203	Vs.	Asst. Commissioner of Income Tax Central Processing Centre Bengaluru
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PAN – AHPPP0207Q

Appellant

Respondent

Appellant by:	None
Respondent by:	Shri Ganesh R. Ghale Standing Counsel for Revenue

Date of Hearing:	30.05.2022
Date of Pronouncement:	31.05.2022

ORDER

Per: B.R. Baskaran, A.M.

The assessee has filed this appeal challenging the order dated 24.09.2021 passed by Ld CIT(A), National Faceless Appeal Centre, Delhi and it relates to the assessment year 2018-19. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the disallowance of Rs.7,68,077/-, being GST amount payable u/s 43B of the Act.

2. None appeared on behalf of the assessee. Hence I proceed to dispose of the appeal ex-parte, without the presence of the assessee.

3. The facts relating to the above said issue are stated in brief. The due date for filing return of income for the year under consideration was extended to 31-10-2018 and the assessee filed his return of income on 15.10.2018. The GST payable amount of Rs.7,68,077/- was shown as “unpaid” in the Tax audit report and hence the above said amount was added to the total income of the assessee u/s 43B of the Act. It is the submission of the assessee that the above said GST amount was paid on

16.10.2018. Accordingly, he filed appeal before Ld CIT(A) seeking deletion of the above said addition on the ground that the GST amount was paid before the extended due date for filing return of income. The Ld CIT(A) held that the adjustment has been made on the basis of information given in the audit report as required under sub-clause (iv) of clause (a) of sec. 143(1). Accordingly, he confirmed the disallowance. The assessee sought to furnish proof of payment of GST amount, but the Ld CIT(A) refused to admit the same.

4. I heard Ld D.R and perused the record. I noticed earlier that the assessee has filed his return of income on 15.10.2018. However, it is the submission of the assessee that the GST amount cited above was paid on 16.10.2018. Hence by the time, the return of income was filed, the assessee has not paid the GST amount and hence the Tax audit report also stated that the GST amount was payable. I noticed earlier that the due date for filing return of income for the year under consideration was extended to 31.10.2018. Accordingly, the GST amount has been paid before the due date and hence no disallowance u/s 43B of the Act is called for.

5. There cannot be any dispute that the adjustment u/s 143(1) has been made on the basis of audit report, but the assessee has paid the GST amount after the date of filing of return of income. The subsequent event of payment of GST could not have been captured by the CPC, but at the same time, we could not ignore the subsequent event of payment of GST amount before the due date for filing return of income, which would not attract the provisions of sec. 43B of the Act. Accordingly, the disallowance made u/s 43B of the Act is liable to be deleted, subject to verification of the payment of GST amount as claimed by the assessee. Accordingly, I set aside the order passed by Ld CIT(A) and restore this issue to the file of the AO with the direction to examine the claim of the assessee with the evidence that may be furnished by him. After hearing the assessee, the AO may take appropriate decision in accordance with law.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open Court on 31st May, 2022.

Sd/-
(B.R. Baskaran)
Accountant Member

Bengaluru, Dated: 31st May, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -NFAC, Delhi*
4. *The CIT*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

By Order

//True Copy//

*Assistant Registrar
ITAT, Bengaluru*

n.p.