

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**

**BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.377/PUN/2021

निर्धारण वर्ष / Assessment Year : 2019-20

Prakash Dhondiram Koli  
C/o Sanjay Vhanbatte and Company,  
Chartered Accountants,  
CTS No.245, C/1, First Floor,  
Mahalaxmi Bank Building,  
Near Kelavkar Hospital, Tarabai Park,  
Kolhapur – 416003

PAN : AZHPK7510P

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Dy. Commissioner of Income Tax,  
CPC, Bangalore

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte  
Revenue by : Shri M.G. Jasanani

सुनवाई की तारीख / Date of Hearing : 20-06-2022

घोषणा की तारीख / Date of Pronouncement : 22-06-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 19-08-2021 passed by the National Faceless Appeal Centre (NFAC), Delhi for assessment year 2019-20.

2. The only issue is to be decided is as to whether the CIT(A) justified in confirming the disallowance made u/s 36(1)(va) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

3. We note that the Assessing Officer (AO), CPC, Bangalore disallowed Rs.24,74,849/- on employees' contribution u/s 36(1)(va) of the Act for not depositing within specified time under the relevant Acts. We note that the CIT(A) found the said amount was paid by the assessee before the due date of filing the return of income vide para 8 of the impugned order, but however, confirmed the disallowance made by the AO, CPC, Bangalore taking into account the recent amendment. We note that Explanation (1) was inserted to clause (va) of sub-section (1) of section 36 of the Act w.e.f. 01.04.2021, wherein the definition of due date is defined making it clear that the assessee is required as an employer to credit employees' contribution to the employees account in the relevant fund under any Act, Rule, Order or Notification issued therein or under any Standing order, Award, Contract of service or otherwise. Admittedly, the assessment year under consideration is 2019-20 and in our opinion, the said amendment by way of Explanation inserted by the Finance Act, 2021 is not applicable. Therefore, the disallowance as confirmed by the CIT(A) is not justified. Thus, it is set aside by holding that the assessee is entitled to get deduction. Thus, the grounds raised by the assessee are allowed.

4. In the result, appeal of assessee is allowed.

Order pronounced in the open court on 22<sup>nd</sup> June, 2022.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT  
पुणे / Pune; दिनांक / Dated : 22<sup>nd</sup> June, 2022.  
GCVSR

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The NFAC, Delhi
4. The concerned CIT, Pune
5. DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.  
//True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune