

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.382/PUN/2021
निर्धारण वर्ष / Assessment Year : 2017-18**

Sutra Systems India Pvt. Ltd.,
23, Electronic Co-op Estate Ltd.,
Pune-Satara Road,
Pune - 411009

PAN: AACCS5421N

.....अपीलार्थी / Appellant

बनाम / V/s.

The Dy. Commissioner of Income Tax,
CPC, Bangalore

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kiran Sanmane
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 04-08-2021 passed by the National Faceless Appeal Centre (NFAC), Delhi for assessment year 2017-18.

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. The Assessing Officer (AO), CPC, Bangalore found the assessee has not paid employees' contribution towards EPF and ESI within due date as prescribed. The assessee explained that the said employees' contribution was remitted before the due date of filing of return of income. We note that the CIT(A) recorded the said statement vide para 3 of impugned order, but however, confirmed the disallowance taking into account the amendment being declaratory in nature and has retrospective effect. 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 2017-18 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 22nd June, 2022.

Sd/-
(R.S. Syal)
VICE PRESIDENT
पुणे / Pune; दिनांक / Dated : 22nd 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