

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Chandra Poojari, AM & Shri George George K, JM

ITA No.75/Coch/2022 : Asst.Year 2012-2013

ITA No.76/Coch/2022 : Asst.Year 2013-2014

M/s.Muthoot Finance Limited 2 nd Floor, Muthoot Chambers Banerji Road Ernakulam - 682 018 PAN : AABCT0343B.	v.	The Assistant Commissioner of Income-tax, Central Circle - 1 Kochi.
(Appellant)		(Respondent)

Appellant by : Sri. R.Sreenivasan, CA

Respondent by : Smt.J.M.Jammuna Devi, Sr.DR

Date of Hearing : 04.08.2022	Date of Pronouncement : 04.08.2022
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ORDER

Per Chandra Poojari, AM :

These appeals at the instance of the assessee are directed against common order of the CIT(A), dated 10.01.2022. The relevant assessment years are 2012-2013 and 2013-2014. Since identical issue is raised in these appeals, they were heard together and are being disposed of by this consolidated order.

2. The solitary issue raised is whether the CIT(A) is justified in confirming the disallowance of employees' contribution to PF and ESI u/s 36(1)(va) of the I.T.Act.

3. The brief facts of the case are as follows:

For the assessment years under consideration, the employees' contribution to PF and ESI was disallowed u/s 36(1)(va) of the I.T.Act, for not making payments within the due date prescribed under the relevant Acts.

4. Aggrieved, the assessee preferred appeals before the first appellate authority. The CIT(A) by following the judgment of the Hon'ble Kerala High Court *in the case of CIT v. Merchem Limited reported in (2019) 378 ITR 443 (Ker.)*, dismissed the appeal of the assessee.

5. Aggrieved, the assessee has filed the present appeal before the Tribunal. The learned AR relied on the submissions made before the Income Tax Authorities.

6. The learned Departmental Representative submitted that the issue in question is squarely covered by the judgments of the Hon'ble jurisdictional High Court in the case of *CIT v. Merchem Limited (supra)* and in the case of *Popular Vehicles & Services Private Limited v. CIT reported in (2018) 406 ITR 150*

7. We have heard the rival submissions and perused the material on record. The assessee is claiming deduction of delayed remittance of employees' contribution to PF and ESI, stating that the same has been deposited before the due date of filing return u/s 139(1) of the I.T.Act. However, the Hon'ble jurisdictional High Court in the case of *CIT v. Merchem Limited (supra)* and in the case of *Popular Vehicles & Services Private Limited v. CIT (supra)* had clearly held that employees' share of

PF and ESI, which was not deposited within the due date under the respective Acts, is not an allowable deduction u/s 36(1)(va) of the I.T.Act. Therefore, following the judgments of the Hon'ble jurisdictional High Court in the case of *CIT v. Merchem Limited (supra)* and *Popular Vehicles & Services Private Limited v. CIT (supra)*, we hold that since the employees' contribution to PF and ESI was not deposited within the due date specified in the relevant Acts, the same cannot be allowed as a deduction u/s 36(1)(va) of the I.T.Act. It is ordered accordingly.

8. In the result, the appeals filed by the assessee are dismissed.

Order pronounced on this 04th day of August, 2022.

Sd/-
(George George K)
JUDICIAL MEMBER

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Kochi ; Dated :04th August, 2022.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-3, Kochi
4. The Pr.CIT (Central), Kochi.
5. The DR, ITAT, Cochin.
6. Guard File.

Asst.Registrar/ITAT, Cochin