

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "A" BENCH

**Before: Shri Pramod M Jagtap, Vice President
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 10/Ahd/2022
Assessment Year 2019-20**

The Mehsana Urban Co-op. Bank Ltd. Urban Bank Road, Corporate House, Mehsana PAN No: AAAAT2500R (Appellant)	Vs	The DCIT, CPC, Bengaluru (Respondent)
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**Appellant by : Shri Bandish Soparkar, A.R.
Respondent by : Shri Shramdeep Sinha, Sr.D.R.**

Date of hearing : 25-08-2022
Date of pronouncement : 26-08-2022

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

The present appeal has been filed by the Assessee against the order dated 26.07.2021 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "NFAC"), against the intimation passed under section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year (A.Y) 2019-20.

2. Registry has noted that there is a delay of 103 days in filing appeal by the assessee. The appeal is filed before the Tribunal on 05.01.2022 whereas the appeal ought to have been filed on or before 23.06.2020 This period falls under COVID-Pandemic situation, thus following Hon'ble Supreme Court judgment dated 23.3.2020 in suo moto Writ Petition (Civil) No.3 of 2020, the Hon'ble Supreme Court has extended time limit for filing appeals w.e.f. 15.3.2020. Thus, there is no delay in filing the above appeal, and we take the appeal of the assessee for adjudication on merits.

2.1. The brief facts of the case is that the appellant is a multi statescheduled cooperative bank doing the business of banking for the past 37 years. The assessee filed its Return of Income for the Assessment Year 2019-20 on 19.10.2019, declaring a total income of Rs. 112,57,22,560/-. The return was processed vide intimation u/s. 143(1) dated 20.05.2020 by disallowing a sum of Rs. 17,53,372/- being late payment of employees Provident Fund contribution and whereby tax was demanded accordingly.

3. Aggrieved against the same, the assessee filed an appeal before the Ld. CIT(A) and the same was migrated to National Faceless Appeal Centre (NFAC). The appellant's solitary ground before the Ld. CIT(A) is that employees PF contribution for the month of May, 2018 of Rs. 17,53,372/- was actually paid on 15.06.2018 well within the due date, but by bonafide mistake, it is mentioned in the office records and Audit Report as 18.06.2018, which is beyond the due date under the PF Act. To justify the stand, the assessee

produced photo copy of the IDBI challan which clearly mention the date of payment as 15.06.2018. The assessee also relied upon various High Court's judgment and Tribunal Judgment in this context and requested to delete the addition of Rs. 17,53,372/-. The Ld. CIT(A), NFAC without appreciating this short point, but in a detailed order relying upon various case laws and held as follows:

6.8 In view of aforesaid discussions, it is held that the AO has correctly disallowed a sum of Rs. 17,53,372/- being employees contribution to PF amounting to Rs. 17,53,372/- as the appellant failed to deposit the same within due dates specified in the respective Acts by invoking provisions of section 36(1)(va) r.w.s. 2(24)(x) and provisions of section 43B are not applicable to the employees contribution to PF/ESI. Therefore, I have no reason to deviate from the decision of the AO. Accordingly, the disallowance made by the AO is confirmed and Ground No.1 and 2 of the appeal are dismissed.

4. Aggrieved against the same, the assessee is before us. Ld. Counsel Mr. Bandish Soparkar for the assessee submitted before us copy of the Return of Income with statement of total income, Tax Audit Report and challan for PF payment for the month of May, 2018. Ld. Counsel taken us through the Audit Report in Form 3CB more particularly Serial No. 20B namely details of contribution received from employees for various funds as referred to in Section 36(1)(va), wherein it is wrongly mentioned the actual date of payment to the concerned authorities as 18.06.2018, whereas the sum of Rs. 17,53,372/- was remitted to PF authorities on 15.06.2018 itself in IDBI Bank and produced copy of the cyber receipt of IDBI Bank at page 27 of the Paper Book. Though the Ld. Counsel pleaded this is a bonafide mistake on the part of the assessee/Chartered Accountant. Thus the disallowance is

contravention to the provisions of the Act and the same is liable to be deleted.

5. Ld. Sr. D.R. Shri Shramdeep Sinha appearing for the Revenue does not dispute about this date of payment and pleaded that the same may be set aside to the Assessing Officer for verification.

6. We heard the rival parties and perused the materials available on record. It is seen from the cyber receipt of IDBI Bank that the PF payment was deposited of Rs. 36,02,043/- by the assessee on 15.06.2018. However in the Audit Report it is mistakenly mentioned as 18.06.2018 after the due date for payment of PF amount which is a typographical error. As the assessee paid the employees contribution well before the due date on 15.06.2018, there is no question of disallowance u/s. 36(1)(va) of the Act. Therefore the addition made by the CPC Centre and confirmed by the Ld. CIT(A) is liable to be deleted.

7. In the result, appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 26-08-2022

Sd/-
(PRAMOD M JAGTAP)
VICE PRESIDENT True Copy
Ahmedabad : Dated 26/08/2022

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue

3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद