

आयकर अपीलिय अधिकरण "बी" न्यायपीठ पुणे में ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
 AND  
 SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.724/PUN/2021  
 निर्धारण वर्ष / Assessment Year : 2017-18**

Polybond India Private Limited,  
 Gaia Apex, Sr. No. 33 11 2 Plot D,  
 First Floor, Vimannagar, Nagar Road,  
 Pune – 411014

PAN : AABCP1261E

.....अपीलार्थी / Appellant

**बनाम / V/s.**

DCIT, CPC,  
 Bengaluru

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rushikesh Kelkar  
 Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 29-08-2022

घोषणा की तारीख / Date of Pronouncement : 30-08-2022

**आदेश / ORDER**

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

This appeal by the assessee against the order dated 23-11-2021 passed by the National Faceless Appeal Centre, Delhi ('NFAC') for assessment year 2017-18.

2. The assessee raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A), NFAC, Delhi justified in confirming the addition u/s. 36(1)(va) of the Act to an extent of Rs.8,01,203/- on account of delayed payment of employee's contribution to ESIC/PF in the facts and circumstances of the case.

3. We note that the assessee is a company engaged in the business of manufacturing and trading of rubber moulded parts, metal bounded rubber parts and anti-vibration mouldings. The CPC, Bengaluru vide intimation u/s. 143(1) of the Act made addition of Rs.8,01,203/- on account of disallowance u/s. 36(1)(va) towards delayed payment of employee's contribution to provident fund. The assessee contended that the employee's contribution towards PF has been paid before the due date of filing of return of income for A.Y. 2017-18 but however the CPC, Bangalore as well as CIT(A), NFAC, Delhi did not accept the submissions of assessee and the CIT(A), NFAC held that the assessee would be entitled to deduction only if the contribution to the employee's welfare fund stood credited on or before the due date under the respective Act. We note that the NFAC by following the amendment made by Finance Act, 2021 to section 36(1)(va) of the Act found the submissions of assessee regarding deposit of employees contribution before the due date of filing return of income not acceptable. We note that the said amendment is applicable from 1<sup>st</sup> April, 2021 and since the assessment under consideration is A.Y. 2017-18, the amendment is not applicable on the facts in hand. We note that the assessee contended that the contribution to ESIC/PF was paid before due date of filing of return of income before the CIT(A) which is evident from para No. 8.3 of the impugned order and we find the CIT(A) did

not dispute the same. Therefore, the order of CIT(A) is not justified and it is set aside. Thus, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 30<sup>th</sup> August, 2022.

Sd/-  
(Inturi Rama Rao)  
ACCOUNTANT MEMBER

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

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> August, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), NFAC, Delhi.
4. The CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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