

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA BENCH "C(SMC)", KOLKATA**

**BEFORE SHRI RAJESH KUMAR, HON'BLE ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER**

**ITA No.363/Kol/2022
Assessment Year: 2018-19**

Chandrani Enterprises Pvt. Ltd.		ACIT, Circle-5(1), Kolkata
739, Chandrani Towers, Anandapur EM Bypass, Kolkata – 700107.	Vs.	
PAN: AABCC 0921 C		
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Manish Tiwari, AR

Respondent by : Shri Partha Pratim Barman, ACIT

Date of Hearing : 01.09.2022

Date of Pronouncement : 05.09.2022

ORDER

PER SONJOY SARMA, JM:

This appeal is preferred by the assessee against the order passed by National Faceless Appeal Centre [hereinafter referred to as 'CIT'] dated 29.04.2022 passed u/s 250 of the Income-tax Act, 1961. The assessee has taken the following grounds of appeal:

"i. That on the facts and in the circumstances of the case, the ld. CIT(A)- NFAC erred in confirming the disallowance of contribution to PF & ESI amounting to Rs. 4,69,224/- when the said payments were well within the due date of submission of return.

ii. That on the facts and in the circumstances of the case, the order of the ld. CIT(A)-NFAC is erroneous as because it ignored the provision of section 43B of the IT Act, 1961 in respect of employee's contribution to provident fund of Rs. 4,69,224/-.

iii. That on the facts and in the circumstances of the case, the ld. CIT(A)- NFAC erred in ignoring the Memorandum of Explanation of Finance Act, 2021 by which

the new amendments in section 36(1)(va) and 43B will be applicable with effect from 01.04.2021.”

2. At the outset, ld. Counsel for the assessee submitted that since the assessee did not get any opportunity to appear before the ld. CIT(A) and could not file relevant documents in support of the submissions before ld. AO and one more opportunity should be given to the assessee and the issues raised in the instant appeal may be set aside to the file of ld. AO. Ld. D/R was fare enough not to oppose his request.

3. We, therefore, under the given facts and circumstances of the case, are of the considered view that since the order of the ld. CIT(A) is *ex-parte order* and no discussion has been made on the merits of the case, we, in the interest of justice, set aside the impugned order and remit it back to the file of the ld. AO for deciding the issues raised before us by way of a speaking order. We also direct the assessee to remain vigilant in receiving the notices of hearing of the ld. AO and should not request for any adjournment unless otherwise required for reasonable cause and should file all necessary documents in support of its claim so as to facilitate the ld. AO for passing the speaking order. Needless to mention that the assessee should be given proper opportunity of being heard.

4. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 05.09.2022.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Kolkata, Dated: 05.09.2022.
Biswajit, Sr. P.S.

Copy to:

1. The Appellant: Chandrani Enterprises Pvt. Ltd.
2. The Respondent: ACIT, Circle-5(1), Kolkata.
3. The CIT, Concerned, Kolkata
4. The CIT (A) Concerned, Kolkata
5. The DR Concerned Bench.

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata