

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 326/Srt/2022 (Assessment Year: 2020-21)  
(Physical hearing)

Jay Narayan Periwal, 144-149, Behind Bharat Petrol Pump, Near Komal Circle, Bamroli Road, Surat. <b>PAN No. ACJPP 7250 N</b>	Vs.	I.T.O. Ward-2(3)(1), Surat.
Appellant/ assessee		Respondent/ revenue

Appellant represented by	Shri Suresh K Kabra, CA
Respondent represented by	Shri Vinod Kumar, Sr. DR
Date of hearing	04/01/2023
Date of pronouncement	04/01/2023

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the assessee is directed against the order of National Faceless Appeal Centre, Delhi (in short, the NFAC)/learned Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A) dated 16/09/2022 for the Assessment year (AY) 2020-21. The assessee has raised following grounds of appeal:

- “1. The Id. Faceless CIT(A) has erred on the facts of the case and in law in not discussing the ground No. 2 relating to disallowance u/s 43B of Rs. 1,36,430/- and confirming the same.*
- 2.1 The claim of deduction u/s 43B of Rs. 1,36,430/- may be kindly allowed.*
- 2.2 Personal hearing may be granted.*
- 2.3 Any other relief that your honours may deem fit may be granted.*
- 3. The assessee craves leave to add, amend, modify alter or delete any of the grounds at the time of hearing.”*

2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that the assessee has deposited/contributed or paid all the payments admissible/ allowable under section 43B and the assessee has claimed deduction of such payment only on actual payment. The CPC wrongly disallowed the deduction under Section 43B. None of the payment /contribution is claimed without actual payment. The Id. AR of the assessee submits that he has filed all the relevant challan and proof of bank payment about the payment of such contribution which consist of PF payable on account of Employer Contribution, interest on term loan, professional tax payable and GST payable.
3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue submit that the Assessing Officer may be directed to verify such details and may be directed to grant relief to the assessee in case all the payment is deposited/contributed or actually paid allowable under section 43B.
4. I have considered the submissions of both the parties and perused the record. I find that the CPC disallowed the payment claimed under section 43B of Rs. 1,36,430/-. I find that the claim of assessee consist of PF payable on account of Employer Contribution, interest on term loan, professional tax payable and GST payable. I further find that the assessee has filed on record

the following bifurcation of various claim, with their challan and proof of bank payment.

“details of payments made (u/s 43B)”

Particulars	Amount payable as on 31.03.2020	Paid on	Page No. Paper book
PF Payable (Employer Contribution)	(500 + 5413 500 + 3538) Total 9,951	04/06/2020 & 18/06/2020	36-38
ESI Payable (Employer Contribution)	(7666 + 6305) Total 13,971	04/06/2020 & 18/06/2020	40-43
Interest on term loan	87,840	02/04/2020 05/04/2020 & 10/04/2020	46
Professional Tax Payable	17,650	20/06/2020	44
GST Payable	7,018	20/06/2020	45
Total	1,36,430		

5. On careful examination of all above details I find that all the claim admissible under Section 43B was actually paid/ contributed/ deposited by the assessee before due date of filing return of income. Thus, the assessee is eligible for deduction of all such claim of aggregating Rs. 1,36,430/-. Hence, the Assessing Officer is directed to delete the addition of Rs. 1,36,430/-. In the result, the grounds of appeal raised by the assessee is allowed.
6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 04<sup>th</sup> January, 2023.

Sd/-  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 04/01/2023

*\*Ranjan*

Copy to:

1. Assessee
2. Revenue

3. CIT(A)
4. CIT
5. DR
6. Guard File

By order

Sr.Private Secretary, ITAT, Surat