

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI**  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
**Before Shri V. Durga Rao, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No.1056/Chny/2022  
निर्धारण वर्ष/Assessment Year: 2020-21

M/s. Nalli Chinnasami Chetty,  
9, Nageswaran Road, T. Nagar,  
Chennai 600 017.

Vs. The Assistant Commissioner of  
Income Tax,  
Non Corporate Ward 7(1),  
Chennai.

**[PAN:AAAFN2314E]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Ramakrishnan, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT  
सुनवाई की तारीख/ Date of hearing : 23.01.2023  
घोषणा की तारीख /Date of Pronouncement : 31.01.2023

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 14.10.2022 relevant to the assessment year 2020-21.

2. Brief facts of the case are that the assessee has filed his return of income on 04.01.2021 for the assessment year 2020-21 declaring

total income of ₹.1,21,24,080/-. The CPC processed the return and issued intimation under section 143(1) of the Income Tax Act, 1961 ["Act" in short] dated 02.11.2021 by assessing total income of the assessee at ₹.1,27,26,940/- after disallowing an amount of ₹.6,02,859/- under section 36(1)(va) of the Act towards belated remittance of PF & ESI. On appeal, by following the judgement of the Hon'ble Supreme Court in C.A, No. 283 of 2016 in the lead case of Checkmate Services Pvt. Ltd. v. CIT, the Id. CIT(A) (NFAC) dismissed the appeal filed by the assessee.

3. On being aggrieved, the Id. Counsel for the assessee has submitted that the due date for remittance of ESI deduction was 14.05.2020 and the assessee has remitted the ESI deduction on 15.05.2020. Further, the PF deduction was remitted on 18.05.2020. It was further submission that due to nation-wide lockdown towards Covid-19 pandemic, the Ministry of Home Affairs (MHA), Government of India ordered under the Disaster Management At, 2005 for the extension of lockdown 31.05.2020 and in view of the above order, shops and establishments were not functioning and with great difficulty, the PF deduction was remitted on 18.05.2020 and prayed for deleting the addition made towards belated remittance of PF & ESI.

4. On the other hand, the Id. DR fairly conceded that the matter may be remitted back to the Assessing Officer for verification and for fresh adjudication.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including the details of Form 3CB, Form 3CD, etc. furnished by the assessee. In this case, the CPC processed the return and disallowed an amount of ₹.6,02,859/- under section 36(1)(va) of the Act towards belated remittance of PF & ESI, which was confirmed by the Id. CIT(A) (NFAC). The contention of the assessee is that the ESI deduction was remitted on 14.05.2020, which was well within the due date of remittance on 15.05.2020. It was also contended that due to nation-wide lockdown towards Covid-19 pandemic, with great difficult, the assessee could remit the PF & ESI deduction. On perusal of the appellate order, under assessee's submission, it was mentioned that the ESI deduction was remitted on 18.05.2020. Accordingly, we set aside the order of the Id. CIT(A) (NFAC) and remit the matter back to the file of the Assessing Officer to verify as to whether the amounts were remitted as provided under relevant PF & ESI Act and the same may be allowed by

affording an opportunity of being heard to the assessee.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 31<sup>st</sup> January, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 31.01.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,  
3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR &  
6. गार्ड फाईल/GF.