

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपीलसं./ITA No.: **618/CHNY/2021**

निर्धारण वर्ष/Assessment Year: 2019-20

Unique Shell Mould (India)
Pvt. Ltd.,
89, Private Industrial Estate,
Pollachi Main Road,
SIDCO,
Coimbatore – 641 021.

The Income Tax Officer,
vs. Corporate Circle 1,
Coimbatore.

PAN: AAACU 5173B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri N. Vijay Kumar, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri M. Rajan, CIT &

Ms. Jancy Elizabeth, JCIT

सुनवाई की तारीख/Date of Hearing

: 31.01.2023

घोषणा की तारीख/Date of Pronouncement

: 10.02.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Appeal No. CIT(A), Coimbatore-1/10010/2020-21 dated 30.10.2021. The return of income was processed by the CPC, Bangalore by issuing intimation u/s.143(1) of the Income Tax Act,

1961 (hereinafter the 'Act') for the relevant assessment year 2019-20 vide order dated 16.05.2020.

2. The first issue in this appeal of assessee is as regards to the order of CIT(A) confirming the disallowance of payments towards belated remittance of employees contribution to PF and ESI amounting to Rs.8,30,703/-.

3. At the outset, the Id.AR for the assessee fairly agreed that the employees contribution to PF & ESI were remitted beyond the due date of respective statutes of PF & ESI Act. Hence, this issue is squarely covered by the decision of Hon'ble Supreme Court in the case of Checkmate Services P. Ltd., in Civil Appeal No.2833 of 2016, order dated 12.10.2022 in favour of Revenue. Since the issue is covered by the decision of Hon'ble Supreme Court, as admitted by assessee, we confirm the order of CIT(A) on this issue.

3. The next issue in this appeal of assessee is as regards to the order of CIT(A) confirming the disallowance of claim of deduction u/s.80IA of the Act amounting to Rs.1,03,31,002/- on the ground that the return of income was not filed within the due date as prescribed under the Act.

4. We have heard rival contentions and gone through facts and circumstances of the case. We noted that from the arguments of Id.AR that the CPC, Bangalore has not allowed deduction claimed u/s.80IA of the Act for the reason that there was delay in filing the return of income and once the return is not filed u/s.139(1) of the Act, deduction u/s.80IA of the Act is not allowable. The Id.AR stated that this delay has occurred only due to technical glitch in uploading Form No.10CCB within the time allowed and hence, there is a delay in filing return of income only by 2 days. The Id.AR stated that the CBDT has issued a circular for condonation of delay and assessee in this year has moved application for condonation of delay with CBDT and CIT(A) should have awaited the decision of CBDT and in case, delay is condoned by CBDT the deduction u/s.80IA is to be allowed. When this fact was confronted to Id. Senior DR, he agreed that the assessee has moved petition with CBDT for condonation of delay in filing of return of income and the matter can be referred back to the file of the CIT(A) for adjudication after the decision taken by CBDT.

5.1 In view of the above facts, we set aside the order of CIT(A) and remand this issue of claim of deduction u/s.80IA of the Act to the file of the CIT(A) who will await the decision of CBDT in regard to condonation petition filed by assessee before CBDT. In term of

the above, this issue of assessee's appeal is allowed for statistical purposes and matter remanded back to the file of the CIT(A).

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

Order pronounced in the open court on 10th February, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 10th February, 2023

RSR

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. |