

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.643/Chny/2022
(निर्धारण वर्ष / **Assessment Year: 2019-20**)

Flextronics Technologies (India) Pvt. Ltd. Plot No.3, Phase II, SIPCOT Industrial Park, Sandavellure C Village, Sunguvarchatram, Sriperumbudur Taluk, Kanchipuram District – 602 106.	बनाम/ Vs.	ADIT CPC, Bengaluru.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AAACF-5248-E		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Sandeep Bagmar (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri S. Premi (Addl.CIT) – Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	20-03-2023
घोषणा की तारीख / Date of Pronouncement	:	24-03-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2019-20 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 03-06-2022 in the matter of an intimation dated 13-07-2020 issued by Centralized Processing Center, Bengaluru (CPC) u/s. 143(1) of the Act.

2. The grievance of the assessee is two-fold i.e., i) confirmation of disallowance of Rs.266.80 Lacs u/s. 40A(7) of the Act ii) Non-grant of Credit of Dividend Distribution Tax (DDT) as paid by the assessee u/s. 115-O of the Act. Having heard rival submissions and after perusal of case records, the issues are adjudicated as under.

3. The assessee filed its return of income which was processed u/s. 143(1) of the Act. An intimation was issued by CPC, Bengaluru on 13-07-2020 u/s 143(1) making certain adjustment in the returned income. The assessee preferred further appeal before Ld. CIT(A) wherein the appeal was allowed partly. Still aggrieved, the assessee is in further appeal before us.

4. One of the impugned adjustment is disallowance of Rs.266.80 Lacs u/s. 40A(7) which represent provision for gratuity. The Tax Auditor reported disallowance of Rs.1041.99 Lacs in clause 21(e) of Tax Audit Report. This includes re-measurement loss (actuarial loss) of Rs.266.80 Lacs on defined benefit plan. However, the assessee only disallowed amount of Rs.775.19 Lacs in the computation of income. Accordingly, CPC made further disallowance of Rs.266.80 Lacs. The Ld. CIT(A) has confirmed the same.

The Ld. AR has raised a plea that the amount of Rs.266.80 Lacs has not been debited to the Profit & Loss Account and the same has been debited 'below the line' item in the Profit & Loss Account under the head 'Other Comprehensive income for the year'. Since the same has not been claimed as deduction, no further disallowance thereof could be made.

After going through financial statements of the assessee vis-à-vis computation of income, we find strength in this plea of Ld. AR. It appears that this amount has not been debited / claimed as deduction and the starting point of computation of Profit & Loss is 'Net profit before tax and other comprehensive income'. Accordingly, we direct Ld. AO to verify the same. If this amount of Rs.266.80 Lacs has not been claimed as deduction, the same could not be disallowed any further. The assessee is directed to provide the requisite details. The corresponding grounds stand allowed for statistical purposes.

5. The second issue is non-grant of credit of Dividend Distribution Tax (DDT) as paid by the assessee. From the fact, it emerges that the assessee declared dividend for financial year 2018-19 in Annual General Meeting held on 30-09-2019. The assessee paid applicable dividend distribution tax of Rs.4,34,409/- on 01-10-2019 vide Challan No.68676, BSR Code 0004329. However, while filing the Challan, the Assessment Year was inadvertently mentioned as Assessment Year 2020-21. Accordingly, the credit of the same was denied by CPC. The Ld. CIT(A) confirmed the denial against which the assessee is in further appeal before us.

After considering payment Challan as placed on page no.233 of the paper-book, we find that the applicable tax has indeed been paid by the assessee. However, Assessment Year has inadvertently been mentioned as Assessment Year 2020-21 which has led to denial of credit by CPC. Since the assessee has paid the due taxes, the credit of the same could not be denied on mere technical errors. Therefore, we direct Ld. AO to verify the payment and grant the credit of the same with a direction to the assessee to substantiate the fact that the

payment pertains to impugned Assessment Year and the credit of the same has not been claimed in AY 2020-21. The corresponding ground stands allowed for statistical purposes.

6. The appeal stand allowed for statistical purposes.

Order pronounced on 24th March, 2023.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई / Chennai; दिनांक / Dated : 23-03-2023

EDN/-

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखक सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF