

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH KOLKATA**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT  
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.88/Kol/2022  
Assessment Year: 2018-19**

Tirupati Engineering Works 71-D, Netaji Subhas Road, Kolkata-700001. (PAN: AABFT7815M)	Vs.	Deputy Commissioner of Income-tax, Centralized Processing Centre, Bengaluru.
<b>(Appellant)</b>		<b>(Respondent)</b>

**Present for:**

Appellant by : Shri Soumitra Choudhury, AR  
Respondent by : Smt. Ranu Biswas, Addl. CIT, DR

Date of Hearing : 09.03.2023  
Date of Pronouncement : 30.03.2023

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order No. ITBA/NFAC/S/250/2021-22/1038021116(1) dated 22.12.2021 passed against the Intimation u/s. 143(1) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 09.08.2019 of Ld. DCIT, Centralized Processing Centre, Bengaluru.

2. The assessee has taken as many as seven grounds of appeal. However, broadly two issues are involved namely, (i) relating to deduction claimed towards payment of bonus as it was paid before the filing of return u/s. 139(1) of the Act and (ii) relating to payment of employees’ contribution of PF and ESI of Rs.17,186/- within the grace period permissible under the PF Act.

3. Ground no. 1 is general in nature and, therefore, does not call for any adjudication. Ground no. 7 is in respect of charging of interest u/s. 234B which is consequential in nature.

4. Brief facts of the case are that assessee filed its return of income on 24.09.2018 reporting total income of Rs.1,22,99,550/-. The Ld. DCIT, CPC, Bengaluru processed the return u/s. 143(1)(a) of the Act on 09.08.2019 at a total income of Rs.1,26,95,130/- by making adjustment of Rs.3,95,580/-. Ld. Counsel submitted that assessee had created a provision for the payment of bonus to its employees of Rs.6,29,753/- which is duly reflected in its audited financial statement. This amount of bonus was paid to the employees before the due date of filing of return, due dates of which are produced by way of ledger account of bonus. The same is extracted below for ease of reference:

<b>Bonus</b>					
Ledger Account					
1-Apr-18 to 30-Sep-18					
					Page 1
Date	Particulars	Vch Type	Vch No.	Debit	Credit
1-Apr-18	Dr Opening Balance				6,29,753.00
30-Jul-18	Cr Cash	Payment	597	2,51,358.00	
	AMOUNT PAID FOR BONUS STAFF AND WORKER FOR THE YEAR 2017-18				
15-Sep-18	Cr ANDHRA BANK	Payment	800	43,735.00	
	Cheque 000266 15-9-2018	43,735.00 Cr			
	AMOUNT PAID FOR BONUS STAFF AND WORKER FOR THE YEAR 2017-18				
	Cr ANDHRA BANK	Payment	801	1,00,470.00	
	Cheque 000267 13-9-2018	1,00,470.00 Cr			
	AMOUNT PAID FOR BONUS STAFF AND WORKER FOR THE YEAR 2017-18				
	Cr Cash	Payment	807	2,34,190.00	
	AMOUNT PAID FOR BONUS STAFF AND WORKER FOR THE YEAR 2017-18				
				<b>6,29,753.00</b>	<b>6,29,753.00</b>

5. Ld. Counsel also referred to the certificate issued by Chartered Accountants M/s. Alpana Mondal & Co. dated 30.11.2018 certifying that the amount of bonus of Rs.2,51,358/- was paid on 30.07.2018 and the balance of Rs.3,78,395/- was paid on 15.09.2018 against the total provision of Rs.6,29,753/- which is within the due date of filing of return for AY 2018-19. Ld. DR could not prove anything on record to controvert this fact. Considering the above facts and submissions of the provisions of law, we find it proper to allow the claim of the assessee in this respect. Accordingly, ground taken in this respect is allowed.

5.1. We also note that Ld. CIT(A) has directed the Ld. AO to verify the records with the supporting evidence for the purpose of considering the allowance of bonus paid by the assessee to its employees. Such a direction given by the Ld. CIT(A) has been contested by the assessee in ground no. 4 which according to the assessee, is not in accordance with the provisions of section 250 read with section 251 of the Act. In this respect, we note that sub-section (6) of section 250 specifically requires the Ld. CIT(A) that his order of disposing the appeal shall be in writing and he shall set the points for determination and the reasons for which it has taken. Further, the powers of the ld. CIT(A) as contained in section 251 do not provide for setting aside the matter back to the file of Ld. AO. Considering the provisions of law, we do find force in the contentions raised by the Ld. Counsel in ground no. 4 and accordingly, we hold that Ld. CIT(A) has no power to restore the matter to the file of AO for reconsideration. However, on the issue in respect of which

Ld. CIT(A) had restored the matter to the file of Ld. AO, we have already given our finding by allowing the ground taken by the assessee in respect of claim of bonus paid before the filing of due date of return.

6. Ground nos. 5 and 6 are in respect of claim of deduction on account of contribution to PF & ESI of Rs.17,186/-, not pressed by the ld. Counsel. The same are accordingly dismissed as not pressed.

7. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 30<sup>th</sup> March, 2023.

Sd/-  
(Rajpal Yadav)  
Vice President

Sd/-  
(Girish Agrawal)  
Accountant Member

***Dated: 30th March, 2023***

JD, Sr. P.S.

Copy to:

1. The Appellant:
  2. The Respondent:
  3. CIT(A), NFAC, Bengaluru
  4. DCIT, CPC, Bengaluru
  5. DR, ITAT, Kolkata Bench, Kolkata
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By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata