

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

ITA No. 120/Srt/2023 (Assessment Year 2018-19)
(Physical hearing)

Allarakhi Faruk Shaikh, Dadri Faliya, Kharach, Kosamba, Bharuch. PAN No. DNMP5 0247 F	Vs.	I.T.O., Ward 1(5), Bharuch.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Rushi Parekh, CA
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of appeal	16/02/2023
Date of hearing	31/03/2023
Date of pronouncement	31/03/2023

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 learned National Faceless Appeal Centre, Delhi (NFAC)/Commissioner of Income Tax (Appeals), (in short, the Id. CIT(A)) dated 23/12/2022 for the Assessment year (AY) 2018-19 wherein the assessee has raised following grounds of appeal:

- “1. That the CIT(A) erred in confirming the disallowance of the PF contribution of Rs. 2,83,340/- u/s 43B.
2. That the addition of Rs. 2,83,340/- may kindly be deleted.
3. That the CIT(A) erred in passing ex parte order on dated 23/12/2022 without considering reply submitted on 16/12/2022.
4. The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal.”

2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that he has a very limited prayer for verification

of fact and to allow relief to the assessee. The Id. AR of the assessee submits that Central Processing Centre (CPC) while processing the return of income made adjustment of Rs. 2,83,340/- on account of delay in payment of employees' contribution or employees' provident fund, vide its intimation dated 22/08/2019. The Id. AR of the assessee submits that the assessee in its computation of income has already made disallowance of Rs. 2,83,340/-. Though, it was wrongly typed as disallowance under Section 40B(b) of the Income Tax Act, 1961. The Id. AR further submits that before the Id. CIT(A), the assessee filed her detailed submission and submitted that the employees' contribution of EPF of April, 2017 was late only for 3-4 days. The assessee has already disallowed such employees provident fund contribution in its computation of income. The Id AR for the assessee submits that copy of computation of income is filed by at page No. 28 of the paper book and copy of submission of assessee dated 15/12/2016 and acknowledgement of e-proceedings response of ITBA Such reply/submission was uploaded on ITBA system on 16/12/2022 alongwith confirmation and certification of Chartered Accountant is also filed on record. The Id. CIT(A) instead of considering such submission, upheld the order of CPC/Assessing Officer by referring the decision of Hon'ble Supreme Court in Checkmate Services Pvt. Ltd. Vs CIT dated 12/10/2022 in Civil Appeal (C) No. 2833/2016. The Id. AR of the

assessee submits that once the assessee already disallowed such amount in its computation of income and further disallowance by CPC is double disallowance and the disallowance/adjustment made by the CPC may be deleted.

3. In alternative submission, the Id. AR fairly submitted that this fact may be verified by the Assessing Officer and the Assessing Officer be directed to delete such disallowance.
4. On the other hand the learned Senior Departmental Representative (Id. Sr. DR) for the Revenue that after hearing the submission of assessee and going through the computation of income, copy of which is filed by assessee at page No. 28 of the paper book, submission of assessee dated 15/12/2016 and acknowledgement of e-proceedings response of ITBA submit that the matter may be restored to the Assessing Officer for verification of fact, if the assessee has already disallowed the similar amount in its computation of income and to pass order in accordance with law.
5. I have considered the submissions of both the parties and have gone through the orders of lower authorities carefully. I find from the copy of computation of income that the assessee has already disallowed Rs. 2,83,340/- of contribution of EPF, in its computation of income. The CPC also disallowed the similar amount as it was paid beyond due date. Before the Id. CIT(A), the assessee filed her submission and specifically

pleaded that the amount has already been disallowed by the assessee in her computation of income and such disallowance amounts to double disallowance. Considering the facts and circumstances of the case, I find merit in the submission of Id. AR of the assessee that once the assessee has already disallowed contribution of EPF and its disallowance by the CPC processing the return of income amounts to double disallowance, therefore, the issue is restored back to the file of Assessing Officer to verify the facts and allow appropriate relief to the assessee.

6. In the result, this appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 31st March, 2023.

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

Surat, Dated: 31/03/2023

**Ranjan*

Copy to:

1. Assessee –
2. Revenue --
3. CIT
4. DR
5. Guard File

// TRUE COPY //

By order

Sr. Private Secretary, ITAT, Surat