

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' 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.177/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2017-18

M/s. Daon Autoparts India Private  
Limited, Survey No. 54/1, No. 100,  
Thandalam Post, Mevalurkuppam,  
Sriperumbudhur Taluk,  
Kanchipuram 600 102.

Vs. The Income Tax Officer  
Corporate Ward 1(4),  
Chennai.

**[PAN:AACCH1373A]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. V. Bhoomija, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 28.03.2023  
घोषणा की तारीख /Date of Pronouncement : 12.04.2023

**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 23.12.2022 relevant to the assessment year 2017-18 passed under section 270A of the Income Tax Act, 1961 ["Act" in short].

2. Facts are, in brief, that during the course of assessment

proceedings, the Assessing Officer has noted that the assessee has made delay remittance of employees contribution of EPF/ESI to the tune of ₹.17,93,326/-. As per the provisions of section 36(1)(va) of the Act, in respect of any sum received by the assessee as contribution from his employees towards any welfare fund of such employees is allowed as deduction only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date. If the payments are not made within the due date there is contravention of the provisions of the Provident Fund Act and the defaulting assessee are not entitled to the benefits of deduction which are otherwise allowable to them under the scheme of the provisions of the Act. Accordingly, the Assessing Officer has disallowed an amount of ₹.17,93,326/- under section 36(1)(va) of the Act and added to the total income of the assessee.

3. Subsequently, the Assessing Officer has initiated penalty proceedings under section 270A of the Act on the ground that the assessee has under-reported its income and levied penalty of ₹.2,77,069/- under section 270A of the Act, which was confirmed by the Id. CIT(A).

4. We have gone through the penalty order and appellate order. The Assessing Officer has not discussed anything about the under-report of

the income. In this case, the claim of the assessee under section 36(1)(va) of the Act was denied on the ground that there is a delay in payment. How the delay in payment is amounting to under-report of income was not discussed by the Assessing Officer. Even, the Id. CIT(A) has simply confirmed the order of the Assessing Officer. Thus, we find that it is not a fit case to impose penalty under section 270A of the Act. Accordingly, the penalty levied under section 270A of the Act is deleted.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 12<sup>th</sup> April, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 12.04.2023

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.