

IN THE INCOME TAX APPELLATE TRIBUNAL KOLKATA BENCH 'A', KOLKATA

[Before Shri Rajesh Kumar, Accountant Member &
Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 56/Kol/2023
Assessment Year : 2020-21

Amrapali Films Ltd.	Vs	ITO, Ward-3(1), Kolkata
PAN: AACCA 6235 C	.	
Appellant		Respondent

Date of Hearing	03.04.2023
Date of Pronouncement	21.04.2023
For the Assessee	Shri J.M. Thard, AR
For the Revenue	Smt. Ranu Biswas, Addl. CIT, DR

ORDER

Per Sonjoy Sarma, JM:

This appeal of the assessee for the assessment year 2020-21 is directed against the order dated 25.11.2022 passed by the ld. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the 'ld. CIT(A)']. The assessee has taken the following grounds of appeal:

"i. For that the ld. CIT(A) was wrong and unjustified in confirming the wrong adjustment of Rs. 6,56,149/- in respect of PF and ESI of Employees contribution.

ii. For that the ld. CIT(A) was wrong and unjustified in confirming the wrong adjustment of Rs. 6,56,149/- in respect of Employees contribution of PF and ESI on the basis of provisions of section 43B whereas no submission was made by referring section 43B.

iii. For that the ld. CIT(A) was wrong and unjustified in not considering / ignoring and not applying his mind towards submissions made in respect of wrong adjustment of Rs. 6,56,149/- in respect of Employees contribution of PF and ESI.

iv. For that the ld. CIT(A) was wrong and unjustified in not considering and applying his mind towards a certificate dated 18.01.2022 issued by Auditor of the appellant in respect of actual amount paid within due dates in respect of employees contribution of PF and ESI which was even enclosed with the appeal memo itself.

v. For that the ld. CIT(A) was wrong and unjustified in not giving any decision in respect of ground no. 2 which was on legal cum technical point that the ld. AO did not give any prior intimation before making the adjustment ignoring the First Proviso to section 143(1)(a).

vi. For that the ld. CIT(A) was wrong and unjustified in not cancelling the wrong adjustments made u/s 143(1)(a) by violating the principle of natural justice.

vii. For that the appellant craves leave to alter, amend, modify any of the grounds and/or take additional grounds before or at the time of hearing of this appeal.”

2. Brief facts of the case are that the assessee has received an intimation from the CPC, Bangalore u/s 143(1) by which ld. AO disallowed the claim of the assessee deduction for payment of Rs. 6,56,149/- u/s 36(1)(va) on account of employees contribution towards PF & ESI as it was paid after the due date stipulated in these acts.

3. Dissatisfied with the above order, assessee preferred an appeal before the ld. CIT(A) and the ld. CIT(A) disallowed the claim of the assessee.

4. Aggrieved by the above order, assessee is in appeal before the Tribunal raising multiple grounds of appeal. However, on perusal of record, it has come to our notice that the sole ground of issue involved in this appeal is ground no. 3 by which the assessee stated that ld. CIT(A) did not consider the submission

made by the assessee by not considering and applying his mind towards certificate dated 18.01.2022 submitted by the auditor of the assessee stating that actual payment of PF & ESI was made within due dates as prescribed under the statute.

5. At the time of hearing, ld. AR submitted before the bench that the auditor of the assessee-company after filing of the audit report, he had noticed that assessee while filing the original 3CA-3CD report due to inadvertent mistake, PF & ESI payment table column in the said report actual payment date remained blank. The assessee has also raised the above facts before the ld. CIT(A) and substantiate its claim alongwith supported evidence in this regard. Further the ld. AR of the assessee to prove the above fact submitted a paper book containing 18 pages before the Tribunal and on perusal of the same, we have noticed that the auditor of the assessee-company had also submitted a copy of confirmation of error on filing of 3CA-3CD from (page 15 to 16) of the said paper book and we after going through the same it is brought to our notice that there was no delay on the part of assessee in depositing the PF & ESI payment before the concerned authority. It was disallowed due to inadvertent mistake on the part of assessee and left the column of "The actual amount paid" remained blank while filing the original 3CA-3CD report by the assessee at the time of filing of audit report.

6. We, therefore, going through the above facts and circumstances of the case viewed that there was an inadvertent

mistake committed by the auditor of the assessee by not inserting the date of payment of alleged sum in 3CA-3CD and it remained blank. However, payment of PF & ESI were made in due time by the assessee as prescribed under the provisions of law. Therefore, the addition made by the AO is not sustainable and accordingly we direct the AO to delete such addition made in the hands of the assessee.

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

Order pronounced in the open court on 21.04.2023.

Sd/-

Sd/-

(Rajesh Kumar)
Accountant Member

(Sonjoy Sarma)
Judicial Member

Dated: 21.04.2023

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Amrapali Films Ltd., 3D, Duck Back House, 41, Shakespeare Sarani, Kolkata-700017.
2. Respondent – ITO, Ward-3(1), Kolkata.
3. Ld. CIT
4. Ld. CIT(A)
5. Ld. DR

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata