

**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE  
(CONDUCTED THROUGH VIRTUAL COURT)**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER &  
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER**

I.T.A. No.07/Ind/2022  
(Assessment Year: 2018-19)

Rajat Builders Raunak Plaza, South Tukoganj, Indore-452001	Vs.	Centralized Processing Centre, Income Tax Department, Bangalore
<b>PAN No.AAGFR2686F</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Smt. Shreya Jain, CA
<b>Respondent by :</b>	Shri Ashish Porwal, Sr. D.R.

<b>Date of Hearing</b>	18.10.2022
<b>Date of Pronouncement</b>	31.10.2022

**ORDER**

**PER SUCHITRA KAMBLE - JM:**

This appeal is filed by the assessee against the order dated 09.12.2021 passed by the Ld. CIT(Appeals), National Faceless Appeal Centre (in short 'NFAC'), Delhi for A.Y. 2018-19.

2. The grounds of appeal raised by the assessee read as under:

*"1. That impugned order passed by the National Faceless Appeal Centre, Delhi is bad in law, without jurisdiction, it is based on incorrect interpretation of law, moreover the facts have also been incorrectly construed.*

*2.1 That on the facts and in the circumstances of case and in law, the National Faceless Appeal Centre, Delhi erred in stating the fact that credit GST amounting to Rs. 28,75,114/- pertain to previous year 2017-18 (i.e. Assessment Year 2018-19) deposited on 29.4.2018 i.e. before the due date of filing of return u/s 139(1) shall be allowed u/s 43B in the previous year 2018-19 (i.e. assessment year 2019-20).*

- 2 -

2.2 *That on the facts and in the circumstances of case and in law, the Ld. National Faceless Appeal Centre, Delhi gross ignored the provision of Section 43B, which reads as under:*

*“Nothing contained in this section shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee alongwith such return.”*

3. *That on the facts and in the circumstances of case and in law, the Ld. National Faceless Appeal Centre, Delhi erred in confirming the charging of interest u/s 234A at Rs.46066, u/s 234B at Rs.423694 and u/s 234C at Rs.313635/-.*  
*The appellant craves leave to add, to alter or amend the aforesaid grounds of appeal as and when necessary.”*

3. The assessee is a partnership firm and filed its e-return for A.Y. 2018-19 on 30.09.2018 declaring total income of Rs. 1,62,30,498/-. The CPC processed return u/s 143(1)(a) on total income of Rs. 1,91,05,612/- by making addition of Rs. 28,75,114/- under Section 43B being amount of outstanding GST as on 31.03.2018 which is deposited on 19.04.2018. The assessee filed rectification application on 27.09.2019 which was rejected vide order dated 22.08.2019.

4. Being aggrieved by the rectification order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the Assessing Officer did not appreciate that the Tax Audit Report uploaded alongwith the return of income wherein in column 26(B) Annexure 03, it was clearly mentioned by the auditor that the said amount of outstanding GST at Rs. 28,75,114/- was duly deposited by the assessee firm on 19.04.2018 and as such no disallowance could be made. The due date for filing return of income was 30.09.2018 on which the assessee e-filed the return. The Ld. AR submitted that the rectification

**- 3 -**

application filed by the assessee firm was rejected by the CPC on 22.08.2019 without assigning any reason. The Ld. AR submitted that the credit of GST amount pertain to previous year 2017-18 (i.e. A.Y. 2018-19) deposited on 29.04.2018 i.e. before the due date of filing of return under Section 139(1) shall be allowed under Section 43B in the previous year 2018-19 (i.e. A.Y. 2019-20).

6. The Ld. DR relied upon the order of the CIT(A) and the assessment order/rectification order.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the due date of filing the return of income for A.Y. 2018-19 was 30.09.2018 and the assessee deposited the GST amount on 29.04.2018 which is before the due date applicable in the assessee's case for furnishing the return of income under sub-Section (1) of Section 139 of the Income Tax Act, 1961. Section 43B clearly set out that nothing contained in the said section shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in the said assessee's case for furnishing the return of income under sub-Section (1) of Section 139 of the Income Tax Act, 1961 in respect of the previous year in which the liability to pay such sum was incurred. These facts were not denied by the Assessing Officer as well as by the CIT(A). The return of income filed by the assessee for A.Y. 2018-19 clearly shows that the assessee deposited GST amount on 29.04.2018 which means no tax liability was kept alive at the time of filing the return of income within the due date. Thus, the CIT(A) was not right in confirming the addition. Hence, Ground No. 2.1 and 2.2 are allowed. As regards

- 4 -

Ground No. 1, the same is general in nature, hence dismissed. As regards Ground No. 3, the same is consequential in nature, hence not adjudicated at this juncture.

8. In result, appeal of the assessee is partly allowed.

Order **pronounced on 31/10/2022** by placing the result on the Notice Board as per Rule 34(4) of the Income Tax (Appellate Tribunal) Rule, 1963.

**This Order pronounced in Open Court on 31 /10/2022**  
Sd/- Sd/-

(BHAGIRATH MAL BIYANI)  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 31/10/2022

TANMAY, Sr. PS

(SUCHITRA KAMBLE)  
**JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Indore
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

(Dy./Asstt.Registrar)  
**ITAT, Indore**

1. Date of dictation 27.10.2022(Dictated in her own computer)
2. Date on which the typed draft is placed before the Dictating Member 27.10.2022
3. Other Member.....
4. Date on which the approved draft comes to the Sr.P.S./P.S .10.2022
5. Date on which the fair order is placed before the Dictating Member for pronouncement .10.2022
6. Date on which the fair order comes back to the Sr.P.S./P.S .10.2022
7. Date on which the file goes to the Bench Clerk .10.2022
8. Date on which the file goes to the Head Clerk.....
9. The date on which the file goes to the Assistant Registrar for signature on the order.....
10. Date of Despatch of the Order.....