

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ ITA No.564/Chny/2022  
(निर्धारण वर्ष / Assessment Year: 2017-18)

<b>Kumaraswamy Naidu Nadella</b> Flat 1304J Block Haware Splendor, Sector-20, Kharghar, Navi Mumbai, Maharashtra – 410 210.	<b>बनाम/ Vs.</b>	<b>DCIT</b> CPC, Bengaluru.
<b>स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAYPN-2637-A</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri S.P. Chidambaram (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri AR.V Sreenivasan (Addl. CIT) –Ld. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	19-04-2023
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	19-04-2023

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 01-06-2022 in the matter of an intimation issued by Centralized Processing Center (CPC), Bengaluru u/s 143(1) of the Act on 18-12-2019. The grounds raised by the assessee read as under: -

The order passed u/s 250 vide order no: ITBA/NFAC/S/250/2022 23/10432842 14(1) dated 01.06.2022 for the Asst. Year 2017-18 by confirming the assessment made u/s 143(1) at Rs.7850150/-is contrary to facts and law.

The Honourable CIT -A,(NFAC) has failed to note that the intimation passed u/s 143(1) on 18.12.2019 by the Assessing Officer, CPC is erroneous and without issue of statutory notices u/s 143(2) of the Income Tax Act.

The Learned Officer has failed to process the original return and also failed to issue notice u/s 143(2) and he has no jurisdiction to make huge additions of Rs.5317348 u/s 143(1) of the Income Tax act.

The Learned CIT-A (NFAC) has not considered the documentary fact that the appellant was in continuous service for more than 5 years by virtue of the fact that he has been filing his returns of income in ITR -1 from Asst. Year 2011-12 to Asst. Year 2017-18.

The Learned CIT-A (NFAC) has failed to consider the fact that the appellant's Form 26AS is also showing salary income and TDS deduction u/s 192 continuously from Asst. Year 2011-12 Year 2017-18.

The Learned CIT-A (NFAC) has not given sufficient opportunity to the appellant before passing the order.

For these reasons and for the additional grounds that may be adduced at the time of hearing, the appellant prays that the addition of Rs.5317348/- be deleted in full and justice be rendered.

As is evident, the solitary issue in the appeal is addition of Rs.53.17 Lacs which is nothing but provident fund withdrawal by the assessee.

2. This addition has been made by CPC while processing the return of income u/s 143(1). The provident fund department deducted TDS on the withdrawals and remitted the balance amount to the assessee. Since this amount was reflected in Form 26AS, CPC added this amount as 'Income from other Sources'. During appellate proceedings, the assessee submitted that he has worked for more than 5 years in employment and the withdrawals would be exempt. However, Ld. CIT(A) held that the assessee submitted Provident Fund Passbook only for the period from 31.03.2014 to 31.03.2017. The assessee failed to provide any evidence regarding carry forward of provident fund of previous former employer into new provident fund account. Therefore, the addition was confirmed against which the assessee is in further appeal before us.

3. Upon perusal of documents placed before us in the paper-book, we find that the assessee has placed on record proof of continuous service from 07.09.2009 to 31.03.2017 as well as Salary Income declared in Income Tax Returns from AYs 2011-12 to 2017-17. The copies of Form 26AS for all these years has also been placed on record. The copy of provident fund passbook is kept on page nos. 43 to 46, the perusal of which would show that the assessee is making contribution to Provident Fund since the year 2012. All these evidences would clearly establish that the assessee fulfilled the prescribed conditions of continuous service of 5 years. Accordingly, the impugned withdrawals would be exempt in the hands of the assessee. We order so. The Ld. AO is directed to re-compute the income of the assessee.

4. The appeal stands allowed in terms of our above order.

Order pronounced in the open Court on 19<sup>th</sup> April, 2023.

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखक सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 19-04-2023  
EDN/-

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. विभागीय प्रतिनिधि/DR 5. गार्ड फाईल/GF