

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH.C.N. PRASAD, JUDICIAL MEMBER**

ITA No.2695/Del/2022
Assessment Year: 2019-20

DCIT Circle – 1(1) New Delhi	Vs	Abhipra Capital Ltd. GF 58-59, Barakhamba Lane, World Trade Centre, New Delhi-110001 PAN No.AABCA1702F
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Kanv Bali, Sr DR
Respondent by	Sh. V. Rajkumar, Advocate

Date of hearing:	25/05/2023
Date of Pronouncement:	25/05/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal filed by the revenue is preferred against the order of National Faceless Appeal Centre (NFAC), Delhi dated 21.09.2022 for A.Y. 2019-20.

2. The grievance of the revenue read as under :-

1. On the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the disallowance of Rs. 12,15,197/- on account of late deposit of Employee's Contribution towards ESI/PF without considering the fact that it is clearly mentioned in the Act, in explanation -2 of section 36(1)(va) that provision of section 43B shall be deemed to never have been applied for the purpose of determining due date. The Employees contribution in Provident Fund was never intended to be covered by the provisions of Section 43B, but was always intended to be covered by the provisions of Section 36(1)(va). The deduction for the Employee's contribution to the EPF/ESI/PF etc. will only be available if the amount is deposited before the due date as specified in such Act issued there under as per Section 36(1)(va) and NOT the due date for filing of Return u/s 139(1) of the I.T. Act as per Section 43B.
2. The appellant craves leave for reserving the right to amend, modify, alter, add or forgo any ground(s) of appeal at any time before or during the hearing of this appeal.
3. A perusal of the grievance of the revenue show that the tax effect would be less than Rs. 50 lakhs, therefore, this appeal is not maintainable as per CBDT Circular No. 17/2019 dated 08.08.2019.
4. This appeal is, accordingly, dismissed with liberty to the revenue to approach the Tribunal as per the provisions of law, should it feel that the tax effect is more than Rs. 50 lakhs.
5. In the result, the appeal filed by the revenue is dismissed.

The order is pronounced in the open court on 25.05.2023 in the presence of both the rival representatives.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:- .05.203

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI