

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.2723/Del/2022  
(Assessment Year : 2020-21)

DCIT Circle – 4(2) New Delhi  <b>PAN No. AACCC 4140 N</b> <b>(APPELLANT)</b>	Vs.	Chanel (India) Pvt. Ltd. 123, Maker Chamber VI, Nariman Point, Mumbai New Delhi-400 021  <b>(RESPONDENT)</b>
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Assessee by	--None--
Revenue by	Shri Ajay Kumar Arora, Sr. D.R.

Date of hearing:	22.05.2023
Date of Pronouncement:	22.05.2023

**PER ANIL CHATURVEDI, AM :**

This appeal filed by the Revenue is directed against the order dated 29.09.2022 passed by the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi relating to Assessment Year 2020-21.

2. Brief facts of the case as culled out from the material on record are as under :-

3. Assessee is a company who had filed its return of income on 15.02.2021 for A.Y. 2020-21 declaring Nil income. In the intimation issued u/s 143(1) of the Act by CPC, Bangalore vide Identification No. CPC/2021/A6/184039504 dated 18.12.2021, the total income was

determined at Rs.1,58,73,080/- *inter alia* by disallowing Rs.76,979/- u/s 36(1)(va) on account of delayed deposit of employees contribution of PF/ESI.

4. Aggrieved by the intimation issued u/s 143(1) of the Act, assessee carried the matter before CIT(A) who vide order dated 29.09.2022 in Appeal No. NFAC/2019-20/10146272 partly allowed the appeal of the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

1. *“On the facts and circumstances of the case, whether the Ld. CIT(A) has erred in fact and in law on the virtue of section 36(1)(va) read with section 2(24)(x) of the Act such sum received by the assessee. Those amount could not have been allowed as deduction and the payment was made beyond the relevant due date.*
2. *The appellant craves leave for reserving the right to amend, modify, alter add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”*

5. On the date of hearing none appeared on behalf of the assessee though the notice of hearing was issued to the assessee. Since the issue raised in the present appeal appears to be a covered issue by the decision of Hon’ble Apex Court, we proceed to dispose of the appeal *ex parte qua* the assessee, after considering the submissions of Learned DR and the material on record.

6. Before us, at the outset, Learned DR submitted that the sole controversy is with respect to the addition made on account of delay in deposit of employee’s contribution towards provident fund and ESI fund by AO but deleted by CIT(A).

7. Before us, Learned DR submitted that the disallowance was made in the intimation on account of delayed deposit of PF/ESIC dues. The addition made by AO was deleted by CIT(A) for the reasons noted in para 5.3 of the order. He took us through the order of lower authorities and supported the order of AO.

8 We have heard the Learned DR and perused the material available on record. The issue in the present ground is with respect to the disallowance of delayed deposit of employee's contribution of PF & ESI in the intimation passed u/s 143(1) of the Act. We find that CIT(A) while deleting the addition at para 5.3 of the order has given a finding that late deposit of PF contribution was already *suo moto* disallowed by assessee in the computation of income and the same amount has been again disallowed by CPC in the intimation resulting into double disallowance of the same amount. He therefore directed the AO to verify the claim while giving appeal effect. Before us, no fallacy in the findings of CIT(A) has been pointed out by Learned DR. In such a situation, no interference to the order of CIT(A) is called for.  
**Thus the ground of Revenue is dismissed.**

**9. In the result appeal of the Revenue is dismissed.**

**Order pronounced in the open court on 22.05.2023**

**(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 22.05.2023

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Copy forwarded to:

1. Appellant
2. Respondent

3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	22.05.2023
Date on which the typed draft is placed before the dictating Member	22.05.2023
Date on which the approved draft comes to the Sr.PS/PS	22.05.2023
Date on which the fair order is placed before the Dictating Member for Pronouncement	22.05.2023
Date on which the fair order comes back to the Sr. PS/ PS	22.05.2023
Date on which the final order is uploaded on the website of ITAT	22.05.2023
Date on which the file goes to the Bench Clerk	22.05.2023
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	