

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 286/Srt/2023 (Assessment Year 2020-21)

(Physical hearing)

Armaan Industries Pvt. Ltd., Plot No. 714, Road No. 7, GIDC, Sachin, Surat. <b>PAN No. AAGCS 8010 H</b>	Vs.	Circle-1(1)(1) Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri Suresh K. Kabra, CA
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	26/04/2023
Date of hearing	25/05/2023
Date of pronouncement	30/05/2023

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the assessee is directed against the order of learned National Faceless Appeal Centre, Delhi (NFAC)/Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 16/03/2023 for the Assessment Year (AY) 2020-21. The assessee has raised following grounds of appeal:

- "1. The Id. CIT(A) has erred and was not just and proper on the facts of the case and in law in confirming disallowance of Employee PF contribution u/s 36(1)(va) despite payment within due date as per due date of respective statute.*
- 2. The Id. CIT(A) has erred and was not just and proper on the facts of the case and in law in confirming disallowance of employer's share of PF/ESI contribution u/s 43B despite payment before due date of filing of return of income.*
- 3. Prayer*
  - 3.1 The payment of Rs. 1,18,171/-being in time may be allowed as deduction u/s 36(1)(va).*
  - 3.2 The payment of Rs. 1,31,882/- being made before due date of filing the return of income, may be allowed as deduction u/s 43B.*
  - 3.3 Personal hearing may be granted.*

3.4 *Any other relief that your honours may deem fit may be granted.*

4. *The assessee craves leave to add, amend, modify alter or delete any of the grounds at the time of hearing."*

2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that he has a very limited prayer and submits that the Central Processing Centre (CPC) Bangalore, while processing the return of income, disallowed the entire contribution of employees and employer with regard to ESI and PF. The employer's share was different amount but in Form 3CD by mistake, the amount of employees' share was mentioned, however, both the items are allowable that made no difference. The Id. AR of the assessee submits that as per payment of ESI & PF for employer as well as employees' share was made in the time for the month of March, 2020, thus the whole of the amount is allowable under Section 43B as well as 36(1)(va) of the Income Tax Act, 1961, (in short the Act).
3. The CPC disallowed the reported amount of Rs. 1,81,171 + 13,711 i.e. total of Rs. 1,31,882/-, the payment is allowable and may be deleted. The Id. AR of the assessee submits that due date for filing for March, 2020 contribution of employer employee were 15<sup>th</sup> May, 2020 and the payment was made on 13/04/2020. The relevant challan has already been placed on record.
4. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue submits that the Assessing Officer may be directed to verify the contention of Id. AR of assessee and allow relief if such payments are made before due date prescribed in the relevant Acts.

5. I have considered the submissions of both the parties and considering the fact that the Id. AR of the assessee has claimed that contribution of employer and employee with regard to ESI & PF for the month of March, 2020 was paid within due date, therefore, the Assessing Officer is directed to verify the required details and to allow relief to the assessee. Needless to direct that before passing the order, the Assessing Officer shall grant reasonable opportunity to the assessee and further to allow to file relevant details and copy of voucher. In the result, grounds of appeal raised by the assessee are allowed for statistical purposes.
6. In the result, appeal of the assessee is allowed for statistical purpose.

Order announced in open court on 30<sup>th</sup> May, 2023.

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated:30/05/2023

*\*Ranjan*

Copy to:

1. Assessee –
2. Revenue –
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat