

**IN THE INCOME TAX APPELLATE TRIBUNAL GAUHATI BENCH
VIRTUAL HEARING AT KOLKATA**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.28/GTY/2022
Assessment Year: 2019-20**

Bazaloni Group Limited 15C, Hemant Basu Sarani, 2 nd Floor, Kolkata-700001. (PAN: AAACB8136H)	Vs.	Assistant Director of Income- tax, CPC, Bengaluru.
(Appellant)		(Respondent)

Present for:

Appellant by : Shri Harsh Vardhan Bhardwaj, FCA
Respondent by : Shri N. T. Sherpa, JCIT

Date of Hearing : 06.06.2023

Date of Pronouncement : 09.06.2023

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide Order No. ITBA/NFAC/S/250/2021-22/1037721175(1) dated 12.12.2021 against the order of DCIT, CPC, Bangalore u/s. 154 of the Income-tax Act, 1961 (hereinafter referred to as the "Act"), dated 23.03.2021 for AY 2019-20.

2. Ground of appeal raised by assessee is reproduced as under:

"1. That on the facts and circumstances of the case, the NFAC had erred both in law and on fact by confirming the order of the Assessing Officer on making an addition of rs.33,86,568/- being delayed deposit of employees contribution to P.F. u/s. 36(1)(va) of the Income Tax Act, 1961 despite assessee contributing/depositing the same before the due date of filing of return of income u/s. 139(1) of the Act."

3. Assessee is engaged in the business of cultivating, growing and manufacturing tea in its own tea estates and had filed its return of income on 30.10.2019, reporting business income of Rs.1,01,66,540/-. Return of the assessee was processed by Centralised Processing Centre (CPC), Bengaluru wherein adjustment was made towards disallowance relating to delayed payment of employees' contribution of Provident Fund amounting to Rs.33,86,568/- vide intimation u/s. 143(1) dated 23.03.2021. Aggrieved, assessee went in appeal before the Ld. CIT(A), who dismissed the same. Aggrieved, assessee is in appeal before the Tribunal.

4. Before us, Ld. Counsel at the outset, submitted that there are mistakes in the dates which have been reported in the Tax Audit Report in Form 3CD as mentioned by the auditor which has led to the disallowance in respect of the employees' contribution towards Provident Fund. According to Ld. Counsel, the dates mentioned are evidently verifiable from the challans for the deposit of the impugned contribution. He also submitted that wherever there is a delay found on verification, the same be disallowed in accordance with the provisions of law. He, thus prayed for setting aside the matter back to the file of the Ld. AO before whom all the challans will be furnished to demonstrate the mistake which has crept in by the Tax Auditor in Form 3CD so that after verification of the payments date, Ld. AO may consider the amounts which ought to be allowed and wherever there is a delay, the same may be disallowed in accordance with the recent decision of Hon'ble Supreme Court in the case of Chekmate Services Pvt. Ltd. vs. CIT [2022] 143 taxmann.com 178 (SC). On this submission, Ld. Sr. DR did not raise any objection.

5. We note from the facts on record that the disallowance has been made on the basis of Tax Audit Report in Form 3CD dated 28.09.2019 e-filed by the assessee on 01.10.2019 wherein in clause 20(b) of Form 3CD, the details of payment made towards employees' contribution for PF are reported with due date and the date of actual payment, indicating thereby the delay, if any. These details are tabulated as under:

20 b Details of contributions received from employees for various funds as referred to in section 36(1)(va):					
S.No.	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities
1	Provident Fund	296399	07/05/2018	296399	11/05/2018
2	Provident Fund	49866	21/05/2018	49866	21/05/2018
3	Provident Fund	11931	30/05/2018	11931	29/05/2018
4	Provident Fund	192141	05/06/2018	192141	07/06/2018
5	Provident Fund	275714	19/06/2018	275714	18/06/2018
6	Provident Fund	273728	30/06/2018	273728	29/06/2018
7	Provident Fund	306856	02/07/2018	306856	03/07/2018
8	Provident Fund	346712	16/07/2018	346712	16/07/2018
9	Provident Fund	270914	30/07/2018	270914	30/07/2018
10	Provident Fund	345605	30/07/2018	345605	30/07/2018
11	Provident Fund	347629	14/08/2018	347629	10/08/2018
12	Provident Fund	312850	28/08/2018	312850	28/08/2018
13	Provident Fund	226813	31/08/2018	226813	31/08/2018
14	Provident Fund	368116	11/09/2018	368116	10/09/2018
15	Provident Fund	463168	25/09/2018	463168	28/09/2018
16	Provident Fund	331134	30/09/2018	331134	28/09/2018
17	Provident Fund	366007	08/10/2018	366007	19/10/2018
18	Provident Fund	294513	22/10/2018	294513	22/10/2018
19	Provident Fund	315830	29/10/2018	315830	29/10/2018
20	Provident Fund	408676	06/11/2018	408676	05/11/2018
21	Provident Fund	310417	20/11/2018	310417	19/11/2018
22	Provident Fund	340857	30/11/2018	340857	28/11/2018
23	Provident Fund	396785	03/12/2018	396785	03/12/2018
24	Provident Fund	173602	17/12/2018	173602	24/12/2018
25	Provident Fund	335857	30/12/2018	335857	27/12/2018
26	Provident Fund	367307	01/01/2019	367307	01/01/2019
27	Provident Fund	108145	15/01/2019	108145	11/02/2019
28	Provident Fund	185983	29/01/2019	185983	29/01/2019

6. In the above table, Ld. Counsel has claimed that there are mistakes in the reporting of actual payment date by the Tax Auditor and, therefore, needs verification. For this a prayer has been made for remitting the matter back to the file of Ld. AO. Considering the facts on record and the prayer made, we find it

proper to accept the submission and remit the matter back to the file of Ld. AO for verification of actual payment dates with the challans for deposit of the impugned contribution respect of which disallowance has been made. Ld. AO may verify the same and consider the allowance in accordance with the provisions of law as well as taking into consideration the decision of Hon'ble Supreme Court in the case of Chekmate Services Pvt. Ltd. (supra). Accordingly, ground taken by the assessee in this respect is allowed for statistical purposes.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 9th June, 2023.

Sd/-
(Sanjay Garg)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 9th June, 2023

JD, Sr. P.S.

Copy to:

1. The Appellant:
 2. The Respondent
 3. CIT(A), NFAC, Delhi
 4. CIT,
 5. DR, ITAT, Gauhati Bench, Gauhati
 6. Guard file
- //True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata