

आयकर अपीलीय अधिकरण, 'सी' (एस एम सी) न्यायपीठ,चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' (SMC) BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: 457/CHNY/2023
निर्धारण वर्ष/Assessment Year: 2018-19

**M/s. Pioneer Steels Employees
Group Gratuity Fund,**
358, Mettupalayam Road,
Coimbatore – 641 043.

The ACIT (Exemptions),
Vs. Coimbatore

PAN: AABTP 6567E
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Ms. Sandyaarti, CA
: Shri G. Johnson, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 14.06.2023
घोषणा की तारीख/Date of Pronouncement : 16.06.2023

आदेश /ORDER

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 17.01.2023. The assessment was framed by the Addl./Joint/Deputy/Asst. Commissioner of Income Tax/Income Tax Officer, National e-Assessment Centre, Delhi for the assessment year 2018-19 u/s.143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 06.01.2021.

2. At the outset it is noticed that this appeal are barred by limitation by 23 days. The impugned appellate order of CIT(A) was communicated to the assessee on 17.01.2023 and appeal was to be filed within 60 days i.e., 18.03.2023 but actually the appeal was filed only on 10.04.2023 thereby there was a delay of 23 days. The assessee has filed condonation petition supported by affidavit stating that the assessee was based at Coimbatore and there was change in the authorized representative of the assessee. Therefore, in the process of collation of details and handing over documents to the newly appointed representative at Chennai, there was a delay. When the above reason was confronted to Id. Senior DR, he could not controvert the above fact situation. After going through the reasons given in the affidavit stating the reasons for delay of 20 days, I feel the cause as reasonable and hence, condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is as regards to the order of CIT(A) upholding the disallowance made by AO of Rs.3,81,095/- claimed u/s.10(25) of the Act being contribution to gratuity fund without approval of group gratuity fund by CIT.

4. I have heard rival contentions and gone through facts and circumstances of the case. I noted that the assessee's trust has filed an application for approval of gratuity fund under Part C of the fourth

schedule of the Act before ACIT, Circle XI, Coimbatore as claimed by it. This application is to be approved by the concerned CIT(Admin) / PCIT. The assessee time and again filed reminders and several reminder letters vide dated 05.01.2010, 01.02.2012 and 24.07.2015 were filed but remained unreplied.

5. The assessee filed return of income for the relevant assessment year 2018-19. The assessee is a gratuity fund trust of M/s. Pioneer Steels, a partnership firm and claimed exemption u/s.10(25) of the Act for an amount of Rs.3,81,095/- being contribution to group gratuity scheme. The AO simpliciter disallowed, for the reason that there is no approval from the competent authority i.e., PCIT for claim of deduction u/s.10(25) of the Act and hence, he made disallowance. The CIT(A) also confirmed the action of the AO but noted that the assessee's application filed online seeking approval of PCIT, Coimbatore-1 on 29.04.2022 was accorded approval vide proceedings dated 27.10.2022 w.e.f., financial year 2022-23. It means, according to CIT(A), the assessee is eligible for claim of deduction u/s.10(25) of the Act from assessment year 2022-23 and hence, he rejected the claim of assessee.

6. I noted that the assessee has applied application for approval of group gratuity fund under Part C of the fourth schedule of the Act

before CIT/PCIT and has sent several reminders vide letters dated 05.01.2010, 01.02.2012 and 24.07.2015 but remains unanswered. It means that there is no fault on the part of the assessee for seeking approval of the group gratuity fund and there is no doubt about the genuineness of transaction. However, in entirety of facts, I'm of the view that let one more opportunity be given to the Revenue to enquire into the assessee's trust application dated 15.04.2008 for approval of group gratuity fund, whether the same is rejected or not. In case, it is rejected prior to 01.04.2017, the assessee will have no case but if it is not decided, the deemed approval will come into play and AO has to allow the claim of assessee. In term of the above, the appeal of the assessee is set aside and remanded back to the file of the AO for fresh consideration in term of the above directions.

7. In the result, the appeal filed by the assessee is partly-allowed for statistical purposes.

Order pronounced in the open court on 16th June, 2023 at Chennai.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 16th June, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|--------------------------|---------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त /CIT |
| 4. विभागीय प्रतिनिधि/DR | 5. गार्ड फाईल/GF. | |