

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.248/Bang/2023
Assessment Year: 2020-21

Hewlett Packard Enterprise Globalsoft Private Limited Regd. Office: No.24, Kothari Arena Hosur Main Road, Adugodi Bangalore 560 030  <b>PAN NO : AADCH9394L</b>	<b>Vs.</b>	CIT(A), NFAC Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri K.R. Vasudevan, A.R. & Smt. Rashmi R., A.R.
<b>Respondent by</b>	:	Smt. Priyadarshini Besaganni, D.R.

<b>Date of Hearing</b>	:	15.06.2023
<b>Date of Pronouncement</b>	:	16.06.2023

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against order of NFAC for the assessment year 2020-21 dated 30.1.2023.

2. The only issue in this appeal is with regard to disallowance of PF/ESI due to delay in payment of same. The ld. A.R. submitted that there was no delay in remittance of employees' contribution to PF and it was only one day which was due to technical fault causing in processing the payment by banking channel. She submitted that the

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ld. CPC/CIT(A) erred in not appreciating that the intention of the law is to prevent the unjust enrichment of employer with the amount which it collects from its employees towards employees share of PF, ESI and other employee's welfare funds whereas, in the instant case, the employer had already initiated bank transfer before the due date under the relevant statute. The ld. AO/CIT(A) further failed to appreciate that the facts in the instant case are different than that of Checkmate Services Pvt. Ltd. case and hence, the jurisprudence cannot be applied mutandis mutatis. The ld. AO/CIT(A) erred in not considering the doctrine of impossibility and judicial precedents in respect of the same, submitted by the assessee vid submission dated 23<sup>rd</sup> January, 2023. She submitted that the ld. AO/CIT(A) erred in charging interest amounting to INR 1,39,734/- u/s 234A of the Act without considering the fact return of income was filed within the extended due date.

3. The ld. D.R. relied on the order of the lower authorities.

4. We have heard the rival submissions and perused the materials available on record. The assessee before us filed a letter issued by Citi Bank dated 15.7.2019 stating that the said amount of Rs.3,42,09,149/- has been paid by assessee on 12.7.2019 and it has been drawn out of the assessee's bank account on 15.7.2019 and also furnished the challan stating that the said payment has been made within the due date of payment and there was no delay on the part of assessee to make payment to the government account. She also relied on the order of the Tribunal in the case of National Insurance Company Ltd. in ITA No.253/Kol/2022 dated 16.11.2022, wherein the Tribunal in the similar circumstances deleted the demand of interest levied u/s 201(1A) r.w.s. 206C (7) of the Act, wherein the delay was caused in depositing TDS into various

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collecting bank of 1 day due to technical problem faced by the authorized collecting bank in remitting the amount to Income Tax department. On same logic, the ld. A.R. pleaded to delete the addition made by AO in respect of non-payment of employees' contribution of PF to government account. We have gone through the following documents filed before us to substantiate the payment that has been made on or before 15.7.2019:

1. Annexure 2A: Email from banker dated 15<sup>th</sup> July 2019 communicating the company that their transaction dated 12<sup>th</sup> July, 2019 had been declined – Page 69 of the paper book
  2. Annexure 2B: Internal approval e-mail of the Company for re-initiating the payment – Page 70 of the paper book
  3. Annexure 3: Copy of challan for PF payment dated 15<sup>th</sup> July, 2019 – Page 71 of the paper book
  4. Annexure -4: Extract of bank statement reflecting the debit of payment on 15<sup>th</sup> July, 2019 – Page 72 of the paper book
- 4.1 However, we find that there was no discussion in the orders of the lower authorities on these documents. In our opinion, these documents required to be examined at the end of the AO. Accordingly, the issue in dispute is remitted to the file of NFAC (Assessing Authority) for reconsideration. Ordered accordingly.
5. In the result, the assessee's appeal is partly allowed for statistical purposes.

Order pronounced in the open court on 16<sup>th</sup> June, 2023

**Sd/-**  
**(Beena Pillai)**  
**Judicial Member**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 16<sup>th</sup> June, 2023.  
VG/SPS

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Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(Judicial)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**