

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

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

ITA No.364/Bang/2023
Assessment Year: 2022-23

Mala Anand No.3, Ram Nivas 9 <sup>th</sup> Cross, Malleshwaram Bangalore 560 003  <b>PAN NO : ADJPA6447P</b>	<b>Vs.</b>	DDIT, CPC Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri Prakash Sridhar Hegde, A.R.
<b>Respondent by</b>	:	Smt. Priyadarshini Besaganni, D.R.

<b>Date of Hearing</b>	:	21.06.2023
<b>Date of Pronouncement</b>	:	21.06.2023

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against order of NFAC for the assessment year 2022-23 dated 20.4.2023. The assessee has raised following grounds:

*“The Grounds mentioned hereinafter are without prejudice to one another.*

- 1. That the learned Commissioner of Income Tax (Appeals) CIT(A)I erred on facts and circumstances of the case and in law by confirming the Rectification Order under section 154 of the Income Tax Act, 1961 (‘the Act’) passed by the Deputy Director of Income Tax, Centralized Processing Center (‘the AO’).*
- 2. That the learned CIT(A) has erred in confirming the Rectification Order of the learned AO who has disallowed Rs 10,79,683 being the amount of Provision for Bonus to Employees which has been paid to the employees on 21 October 2022 [i. e. after the filing of the Tax Audit Report but before the due date for filing the Income Tax Return (‘ITR’) under section 139(1) of the Act], though the main condition as required under the Proviso to section 43B of the Act has been fulfilled.*

Page 2 of 5

3. *That the learned CIT(A) has erred in confirming the Rectification Order of the learned AO who has not appreciated the fact that Rule 12(2) of the Income Tax Rules, 1962 stipulates that ITR shall not be accompanied by any document or copy of any account etc. (though the evidence of payment of Bonus to Employees is required to be furnished by the assessee along with the ITR, as per Proviso to section 43B of the Act).*
4. *That the learned CIT(A) has erred in confirming the order of the learned AO who has levied additional interest under section 234B and 234C of the Act.”*

2. Facts of the issue are that the assessee is an Individual, having income from business and income from other sources. The assessee has filed the return of income on 29-10-2022 declaring Total Income of Rs. 44,47,130/-. The return has been processed by the Centralized Processing Centre (CPC) of the Income Tax Department. The Assessing Officer (AO) has passed the order u/s 143(1) of the Income-tax Act, 1961 [‘the Act’ for short], by disallowing Rs. 10,79,683/- being provision for bonus to employees u/s 43B of the Act based on the tax audit report filed on 30-09-2022. However, entire provision for bonus to employees has been paid on 21-10-2022, i.e., before the due date of filing the return of income u/s 139(1) of the Act. The fact has been submitted on 11-11-2022 to the CPC in response to the Notice of adjustment u/s 143(1)(a) of the Act, however, the AO had not considered the submission in this regard and passed the order u/s 143(1) of the Act. The ld. A.R. submitted that the ld. AO has erred in not considering the above said fact and hence, aggrieved by the impugned order, the assessee went in appeal before NFAC.

2.1 The NFAC observed that the return of income filed by the assessee for AY 2022-23 was processed u/s 143(1) of the Act by CPC wherein a sum of Rs.10,79,683/- was disallowed u/s 43B of the Act based on the details provided in Tax audit report in Form 3CD at

Page 3 of 5

clause 26B(b). On perusal of Tax Audit Report filed on 30.09.2022 in Form 3CD at clause 26B(b) the NFAC observed that Bonus payable for a sum of Rs.10,79,683/- has not been paid on or before the due date for filing of return of income u/s.139(1) of the Act and is clearly reported as disallowable under Section 43B of the Act based on which the disallowance was proposed to be made by CPC u/s.143(1) of the Act. However, the assessee contended before CPC that the impugned sums have been paid subsequently before the due date for filing of return u/s.139(1) of the Act and hence ought to be allowed.

2.2. The NFAC observed that section 143(1)(a) has been amended with effect from AY.2017-18, and scope of adjustments that can be made at the time of processing u/s.143(1)(a) has also been expanded by inserting new sub clauses (iii), (iv), (v) and (vi) under 143(1)(a) of the Act. The newly inserted sub clause (iv) specifically deals with disallowance of expenditure indicated in the audit report that has not been taken into account in computing the total income in the return, which was not the case in earlier years. This shall now be one of the mandatory adjustments to be carried out u/s.143(1)(a) from AY.2017-18 onwards. Further, the NFAC observed that clause (iv) of 143(1)(a) has further been amended with effect from 01.04.2021 to include any "increase in income" indicated in Audit Report.

2.3. Further, it was observed by the NFAC that in assessee's case, no such revised Audit Report was filed and hence the return of income was duly processed by CPC based on the details available as per the Original Tax Audit Report. The assessee has not filed any revised Tax Audit Report in accordance with Rule 6G even

Page 4 of 5

thereafter, without which the claim of the assessee could not be considered. The detailed examination of such claim as sought to be carried out by the assessee without filing a revised Tax Audit Report are beyond the scope of section 143(1) of the Act.

2.4 For these reasons, the NFAC concluded that the adjustment u/s.143(1)(a) made by CPC on the basis of the validly e-filed Tax Audit Report on the issue of disallowance under section 43B is found to be consistent with facts on record and in accordance with law and hence does not warrant any interference and hence the NFAC dismissed the ground raised by the assessee on this issue. Against this assessee is in appeal before us.

5. We have heard the rival submissions and perused the materials available on record. Admittedly, in this case, the assessee had prepared the audit report u/ 44AB of the Act on 30.9.2022. The due date for filing return u/s 139(1) of the Act was extended up to 31.10.2022. The argument of the ld. A.R. is that the bonus to employees has been paid after 30.9.2022. However, the same was paid before due date for filing return of income i.e. 31.10.2022. Being so, the provisions of section 43B of the Act is not applicable as this was paid before due date of filing return of income and the same to be allowed.

5.1 We find force in the argument of the ld. A.R. since the amount of bonus to employees has been paid before due date of filing of return of income u/s 139(1) of the Act and this is sufficient compliance of provisions of section 43B of the Act. Accordingly, we allow the claim of the assessee.

Page 5 of 5

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 21<sup>st</sup> June, 2023

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

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

Bangalore,  
Dated 21<sup>st</sup> June, 2023.  
VG/SPS

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.**