

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.340/Del./2023
(ASSESSMENT YEAR : 2020-21)**

Radial International,
C/o Advocate Nagesh Kumar Behl,
80/1, Block 2, WHS, Kirti Nagar,
Delhi – 110 015.

vs.

DCIT,
Central Circle 1,
New Delhi.

(PAN : AAAFR0154J)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Nagesh Kumar Behl, Advocate
REVENUE BY : Shri Sanjay Kumar, Sr. DR

Date of Hearing : 13.07.2023
Date of Order : 18.07.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the order of the Id.
CIT (Appeals)-23, New Delhi dated 14.12.2022 pertaining to Assessment
Year 2020-21.

2. The grounds of appeal taken by the assessee read as under :-

“1. That the order of Ld. Commissioner (Appeals) is contrary to
the law and the facts of the appellant’s case.

2. That the AO (CPC) erred in disallowing the PF payment
amounting to Rs.89,644/- deposited on or before the due date of
filing of Income Tax Return during the year.

3. That the Ld. CIT (A) erred in holding that PF deposited immediately on the next working day (due date being national holiday) would be considered as delayed payment and attract disallowance u/s 36(1)(va) of the Act.”

3. Brief facts of the case are that in this case, AO/CPC under section 143(1) of the Income-tax Act, 1961 (for short 'the Act') disallowed payment of PF amounting to Rs.89,644/- which was deposited after the due date under the relevant Act. Upon assessee's appeal, ld. CIT (A) confirmed the same by referring to Hon'ble Supreme Court order in the case of M/s. Checkmate Services Pvt. Ltd. (2022) 143 taxmann.com 178 (SC).

4. Against the above order, assessee is in appeal before us. We have heard both the parties and perused the records.

5. Ld. Counsel of the assessee submitted that the last date for depositing of payment of PF was national holiday and in such a situation, the deposit was made on the next date and the same should be accepted. For this proposition, he referred to ITAT order dated 29.05.2023 in ITA No.1843/Del/2021 for AY 2018-19 where, in similar circumstances, ITAT has concluded as under :-

“ In view of the provisions of the General clauses Act, 1897, reproduced above, we feel it appropriate to restore the issue back to the file of AO for examining the payments made on day next to due date, being holiday on due date and allow the deduction accordingly. The grounds raised by the assessee are accordingly allowed partly for statistical purposes.

7. In the result, the appeal filed by assessee is allowed partly for statistical purposes.”
6. Upon careful consideration and after hearing both the parties, we agree with the submissions that if the last date for depositing of payment is a holiday and the payment is made on the next date, the same should be allowed, as has been decided in the abovesaid case of ITAT. We also feel it appropriate to remit the issue back to the file of AO for examining the payments made on day next to due date, being holiday on due date and allow the deduction accordingly.
7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 18th day of July, 2023.

**Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 18th day of July, 2023
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)-23, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**
