

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.779/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2018-19

M/s. ITCOT Limited,  
50A, Greams Road,  
Chennai 600 006.

Vs. The Income Tax Officer,  
Corporate Ward 1(1),  
Chennai.

**[PAN:AAACI0915P]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. Bernadette Lily, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri S. Senthil Kumaran, CIT  
सुनवाई की तारीख/ Date of hearing : 25.07.2023  
घोषणा की तारीख /Date of Pronouncement : 28.07.2023

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 16.03.2023 relevant to the assessment year 2018-19.

2. The appeal of the assessee is filed with a delay of 46 days in filing the appeal before the Tribunal. The assessee has filed a petition for condonation of delay in support of an affidavit mentioning the detailed reasons for delay in filing the appeal. By referring to the above

condonation petition, the Id. Counsel for the assessee has submitted that there is reasonable cause for the delay and the delay in filing the appeal is neither wilful nor wanton and prayed for condonation of delay and to admit the appeal for adjudication. Against the above submissions, the Id. DR has not raised any serious objection. Considering the petition for condonation of delay, we hereby condone the delay in filing the appeal and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2018-19 on 22.10.2018 declaring total income of ₹.53,58,900/-. The return filed by the assessee was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short] dated 04.11.2019 and adjustments of an amount of ₹.24,42,704/- under section 36(1)(va) of the Act on account of delayed payment of employees contribution to ESI/EPF & disallowance of ₹.30,30,918/- under section 40A(7) of the Act for provision for payment of gratuity was made by the Assessing Officer. On appeal, the Id. CIT(A) dismissed the appeal by confirming the additions made by the Assessing Officer since the assessee could not respond to the hearing notices of the Id. CIT(A).

4. On being aggrieved, the assessee is in appeal before the Tribunal against confirmation of additions made by the Assessing Officer.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book filed by the assessee. The Id. CIT(A) confirmed the additions made by the Assessing Officer towards disallowance of EPF under section 36(1)(va) of the Act and gratuity under section 40A(7) for the reason that the assessee has not filed any written submissions in support of evidence to substantiate its claim. Before us, in the form of paper book, the assessee has filed copy of break-up of EPF and challan copies for 12 months and submitted that PF contributions were deposited much before the due date. By filing copy of the assessment order under section 143(3) of the Act dated 23.07.2020 for the assessment year 2018-19, it was submitted that with regard to the disallowance made under section 40A(7) of the Act, the Assessing Officer has duly accepted the claim of the assessee towards provision of gratuity. However, since the above documents were not furnished before the Id. CIT(A), the Id. CIT(A) could not consider the same while adjudicating the appeal. Under the above facts and circumstances, we set aside the order of the Id. CIT(A) on both the issues and remit the matter back to the file of the Id. CIT(A) to decide the issues afresh in accordance with law by considering the copy of break-up of EPF and challan copies for 12 months as well as copy of the assessment order under section 143(3) of the Act dated 23.07.2020 by

affording an opportunity of being heard to the assessee. The assessee is also directed to furnish the evidences before the Id. CIT(A) as was furnished before the Tribunal.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 28<sup>th</sup> July, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 28.07.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,  
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.