

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
माननीय श्री मनोमोहन दास, न्यायिक सदस्य का समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM AND
HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ **ITA No.460/Chny/2023**
(निर्धारण वर्ष / **Assessment Year: 2018-19**)

M/s. Signals & Systems India Pvt. Ltd. 15/D-19, 3 rd Main Road, SIPCOT IT Park, Siruseri, Chennai-603 103.	बनाम/ Vs.	DCIT Corporate Circle-6(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AAACS-9898-R		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri D. Anand (Advocate) - Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri P. Sajit Kumar (JCIT) –Ld. Sr. DR
सुनवाई की तारीख/ Date of Hearing	:	24-08-2023
घोषणा की तारीख / Date of Pronouncement	:	24-08-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 13-02-2023 in the matter of an intimation issued by Centralized Processing Center, Bangalore (CPC) u/s 143(1) on 19-10-2019 making certain adjustment in the returned income. The Ld. CIT(A) has confirmed the same against which the assessee is in further appeal before us.

2. The first grievance of the assessee is confirmation of disallowance of late payment of Employees' Contribution to PF / ESI for Rs.3.11 Lacs u/s 43B r.w.s. 36(1)(va) r.w.s. 2(24)(x). The Ld. CIT(A) has confirmed the same by following the decision of Hon'ble Supreme Court in bunch of appeals titled as **Checkmate Services P. Ltd. Vs CIT (143 Taxmann.com 178; dated 12.10.2022)** wherein this controversy has now been put to rest by the Hon'ble Court by deciding this issue in revenue's favor. Since the impugned order follows a binding judicial precedent, the same do not require any interference on our part. The corresponding grounds raised by the assessee stand dismissed.

3. The CPC has made another adjustment of Rs.29.19 Lacs u/s 43B on account of retention money. Upon perusal of Income Tax Return form, we find that the assessee has reflected this amount as any sum in the nature of tax, duty, cess or fees etc. However, Tax Auditor has not indicated any such sum in Tax Audit Report and therefore the aforesaid adjustment was made. During appellate proceedings, the assessee submitted that retention money was retained by State Electricity Board and the same is receivable subject to fulfillment of certain contractual conditions. Therefore, the same was contingent in nature and could not be said to have accrued to the assessee. However Ld. CIT(A) upheld the adjustment.

4. Before us, Ld. AR submitted that as per consistent accounting methodology being followed by the assessee, the retention money is offered on receipts basis since AYs 2012-13 to AY 2021-22 and the same has been accepted by revenue except in this year. The Ld. AR also placed on record a tabulation along with supporting document to

establish that the retention money has been offered to tax on receipt basis. The Ld. AR submitted that an inadvertent error in filling the columns in Income Tax Return form would not jeopardize the claim of the assessee. It has also been submitted that the aforesaid sum is not covered u/s 43B.

The Ld. Sr. DR, on the other hand, submitted that the return has been processed as per details filed by the assessee and the error on the part of the assessee could be corrected only by filing revised return of income or taking recourse to other alternative remedies as provided in the statute.

5. We find that as per settled legal position, there is no bar on appellate authorities to entertain even a new claim. However, the assessee's case stands on much better footing. Apparently, there is an error by the assessee in filling the Income Tax Return form which has resulted into impugned adjustment. However, the assessee has placed on record ample evidences to support its case. From the tabulation, it could be seen that the assessee is following consistent method of accounting to recognize the revenue on account of retention money and offering the same to tax on receipt basis. Therefore, prima facie, impugned adjustment is not sustainable subject to verification of this fact by Ld. AO. Therefore, for a limited purpose of verification of the fact that the assessee is following consistent method of accounting to recognize the revenue on account of retention money and offering the same to tax on receipt basis, the issue is restored back to the file of Ld. AO. If the averment made by Ld. AR is found to be correct, the impugned adjustment would stand deleted. The corresponding grounds stands allowed for statistical purposes.

6. The appeal stands partly allowed for statistical purposes.

Order pronounced on 24th August, 2023.

Sd/-
(MANOMOHAN DAS)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 24-08-2023.
DS

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

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