

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH.KUL BHARAT, JUDICIAL MEMBER**

ITA No.1492/Del/2022
Assessment Year: 2018-19

Wings Biotech LLP 611, Surya Kiran Building, 19 K. G. Marg, New Delhi PAN No.AAAF9631P	Vs	ACIT Circle – 43 (1) Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Anil Jain, CA Sh. Sarveshwar Singh, Advocate
Respondent by	Sh. Amit Katoch, Sr DR

Date of hearing:	31/08/2023
Date of Pronouncement:	31/08/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order dated 10.06.2022 by NFAC, Delhi pertaining to A.Y. 2018-19.

2. The short grievance of the assessee is that the CIT(A)/ NFAC erred in sustaining the addition of Rs.2138393/- on account of late deposit of EPF.

3. Representatives of both the sides were heard at length. Case records carefully perused. There is no dispute in so far as the fact of delay in deposit of EPF is concerned and the same is clear from the following chart :-

<i>Due date of payment</i>	<i>Actual date of payment</i>	<i>Amount</i>
15.06.2017	16.06.2017	387394
15.07.2017	17.07.2017	190786
15.09.2017	16.09.2017	348586
15.10.2017	17.10.2017	212819
15.11.2017	17.11.2017	365486
15.04.2018	16.04.2018	210753
15.04.2018	16.04.2018	30820
15.04.2018	16.04.2018	391749

4. It has been pointed out to us that last three deposits shown in the chart are dated 16.04.2018 when the due date was 15.04.2018. It has been further brought to our notice that on 15.04.2018 was Sunday and, therefore, as per section 10 of General Clauses Act 1977 if the court or office is closed on the due date the act or proceeding shall be considered as done or

taken in due time if it is done or taken on the next day afterwards on which the court or office is opened.

5. We find force in this claim of the Counsel since the due date i.e. 15.04.2018 was Sunday, therefore, the next working day i.e. 16.04.2018 becomes the due date and, therefore, the sum deposited on 16.04.2018 has to be allowed and the balance amount stands disallowed.

6. The counsel further made a claim that the assessee is eligible for deduction u/s. 80IC of the Act, therefore, any such disallowance is eligible for the deduction u/s. 80 IC of the Act. A similar view was taken by the coordinate Bench in the case of the assessee for A.Y.2017-18 in ITA No.531/Del/2023.

7. We are of the considered view that the decision of the Hon'ble Supreme Court in the case of Check Mate Services Private Limited 448 ITR 518 squarely apply on the facts of the case, but at the same time the claim of deduction u/s. 80IC cannot be ignored, therefore, to this extent we direct the AO to consider the claim as per the relevant provisions of the law after affording a reasonable and adequate opportunity of being heard to the assessee.

8. In the result, the appeal of the assessee is allowed in part for statistical purpose.

9. Decision announced in the open court on 31.08.2023.

Sd/-
[KUL BHARAT]
JUDICIAL MEMBER

Dated: .08.2023

Neha

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Asst. Registrar
ITAT, New Delhi