

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH, JABALPUR**

**BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 42/Jab/2023  
(ASSESSMENT YEAR- 2017- 2018)**

M/s. Satya Prakash Builders Ltd., Parishram, Madan Mahal, Jabalpur (M.P)	vs	Asst .CIT, Cirle-2(1), Jabalpur.
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN No. AAHCS3775N</b>		

<b>Assessee By</b>	Shri H.S.Modh, Adv.
<b>Revenue By</b>	Shri Saad Kidwai, CIT DR
<b>Date of hearing</b>	20/09/2023
<b>Date of Pronouncement</b>	22/09/2023

**ORDER**

**PER OM PRAKASH KANT, A.M.:**

This appeal by the assessee is directed against the order dated 16.02.2023 passed by Ld. Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short "Ld.CIT(A)"] for assessment year 2017-18, raising following grounds of appeal:-

- 1. "That the CIT (A) has grossly erred in facts and R circumstances of the case to confirm the addition of Rs. 3,69,249/- considering that the payment of Provident Fund and ESI has been made after due date but before filing of income tax return.*

2. *That the addition confirmed for Rs. 3,69,249/- on account of delayed payment of Provident Fund and ESI is arbitrary and bad in law.*
3. *That the Assessee craves leave to raise any other ground/s on or before the date of hearing to prove that the order is bad.”*

2. We have heard Ld. Authorized Representatives of the parties on the issue in dispute and perused the relevant material available on record. In the case the issue in dispute is regarding the deduction for employees state insurance (“ESI”)/ provident fund (“PF”) deposited after due date prescribed under the relevant Acts. Before us, Ld. Counsel for the assessee submitted that amount disallowed by the Assessing Officer (in short “AO”) also included employer’s contribution to ESI/PF which is eligible under the provision of section 43B of the Income Tax Act, 1961 (in short “the Act”) if paid on or before the due date of the filing of the return of income.

3. We find that as far as employee’s contribution to the ESI/PF paid after due date under the relevant Act, is not allowable as deduction u/s 36(1)(va) of the Act. However, the employer’s contribution to ESI/PF paid after due date under the relevant Act is allowed if same is paid before the due date of filing of the return of income for the year under consideration as per section 43B of the

Act. Accordingly, we restore the issue in dispute involved in the appeal back to the AO for deciding afresh in accordance with law. Thus, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 22/09/2023.

**Sd/-**

**Sd/-**

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

**(OM PRAKASH KANT)**  
**ACCOUNTANT MEMBER**

*\*Amit Kumar\**

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR
6. Guard File

Asstt. Registrar  
Jabalpur Bench