

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.755/Kol/2023
Assessment year: 2021-22

Steel House.....Appellant
C/o S. L. Kochar, Advocate,
86, Canning Street, Kolkata-1.
[PAN: ABOFS8585R]

vs.

DCIT, Circle-36, Kolkata.....Respondent

Appearances by:

Shri Anil Kochar, Advocate, appeared on behalf of the appellant.

Shri Sallong Yaden, Addl. CIT- DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 17, 2023

Date of pronouncing the order : October 17, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 30.06.2023 of the National Faceless Appeal Centre [(hereinafter referred to as the 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has contested the addition/adjustment made by the CPC in respect of an amount of Rs.13,79,707/- on account of delayed payment of PF/ESI.

3. At the outset, the ld. counsel for the assessee has submitted that the small delay on account of deposit of PF/ESI in this case was not intentional but due to certain reasons beyond the control of the

assessee. He, in this respect, has invited our attention to the chart produced on the file to submit that an amount of Rs.618668/- towards EPF for the month of April 2020 was deposited on 18.05.2020, whereas, the last date stipulated for deposit of EPF for the month of April, 2020 was on 15.05.2020. There was a delay of 3 days only. The ld. counsel has submitted that the aforesaid period was marred by Covid-19 pandemic and the small delay has occurred due to various reasons including closing of his office on certain dates due to Covid-19 pandemic. The ld. counsel has further invited our attention to the next entry of Rs.559928/- which pertains to the EPF for the month of October 2020 which was deposited on 16.11.2020, whereas, the last date for deposit of the EPF for the month of October was 15.11.2020. The ld. counsel, in this respect, has submitted that 15.11.2020 was Sunday and the amount was deposited on the next working day i.e. 16.11.2020. Moreover, the period was marred by Covid-19 pandemic. Similarly, ESI towards employees' contribution for the month of April of Rs.102082/- was deposited on 18.05.2020 and another amount of Rs.98309/- towards ESI of employees' contribution for the month of October 2020 was deposited on 16.11.2020. The ld. counsel has given the same reasoning on the aforesaid short delay as given in relation to delayed deposit of EPF. The ld. counsel, therefore, has submitted that the aforesaid short delay of 3 days in respect of ESI and PF for the month of April and delay of 1 day in respect of ESI & PF for the month of October was not intentional but due to reasons beyond the control of the assessee.

4. The ld. DR, on the other hand, has relied upon the findings of the lower authorities.

5. Considering the aforesaid submissions of the ld. counsel, we are of the view that the short delay occurred in deposit of ESI/PF during Covid-19 Pandemic period and on account of last day being Sunday in respect of ESI/PF relating to the month of October were due to the reasons beyond the control of the assessee. The impugned additions/adjustments made by the CPC, therefore, are not sustainable and the same are accordingly ordered to be deleted. Our above observations have been made considering the peculiar facts of this case and cannot be taken as precedent in other cases.

6. In the result, the appeal of the assessee stands allowed.

Kolkata, the 17th October, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 17.10.2023.

RS

Copy of the order forwarded to:

1. Steel House
2. DCIT, Circle-36, Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches