

IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA No. 2041/Mum/2023
(A.Y: 2020-21)

GlobalWasteManagement Cell Pvt.Ltd, 1 st , Floor, Room No. 20/21 10, Atul Niwas, 7 th Ketwadi, Mumbai-400004.	Vs.	Centralized Processing Centre(CPC), PostBox.No.01, Electronic city, Bengaluru-560500.
PAN/GIR No. : AACG4780E		
Appellant	..	Respondent

Appellant by :	Shri Rahul K. Hakani.AR
Respondent by :	Shri Dr. Kishore Dhule. CIT-DR

Date of Hearing	19.10.2023
Date of Pronouncement	23.10.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC), Delhi /CIT (A) passed u/sec 143(1) and U/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. The learned CIT(A) erred in confirming order of learned Assessing Officer making disallowance of Rs.12,68,220/- being employees contribution to provident/ESIC fund u/s*

36(va) due to delay in credit of said amount without appreciating that said disallowance could not have been made u/s 143(1) and thus the adjustment made in intimation u/s 143 (1)(a) of Rs. 12,68,220/- may be deleted

2) The learned CIT(A) erred in confirming order of learned Assessing Officer making disallowance of Rs.12,68,220/- being employees contribution to provident/ESIC fund u/s. 36(va) due to delay in credit of said amount without appreciating that there is no delay and hence the disallowance of Rs12,68,220 /- may be deleted.

3) The learned CIT(A) erred in confirming order of learned Assessing Officer making disallowance of Rs. 12,68,220/- being employees contribution to provident/ESIC fund u/s. 36(va) due to delay in credit of said amount without appreciating that delay if any is condonable in the facts of the present case and same will not attract disallowance u/s 36(v)(a) and hence the disallowance of Rs 12,68,220/- may be deleted.

4) The appellant craves leave to add, amend, alter or delete any of the above grounds of appeal."

2. The Brief facts of the case are that, the assessee is engaged in the business and has filed the return of income for the A.Y 2020-21 on 27.01.2021 disclosing a total income of Rs.8,77,07,310/- and the return of income was processed with disallowance u/sec 36(va) of the Act of Rs.12,68,220/- being employees contribution towards PF/ESIC not paid within due

date under the respective Act and the total income was determined at Rs.8,99,75,530/- u/s 143(1) of the Act dated 24-12-2021.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal and the submissions of the assessee and has confirmed the action of the AO on the disallowance of employees contribution towards PF/ESIC and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in dismissing the appeal of the assessee overlooking the facts and material information. The Ld. AR contentions are that the important facts of date of deposits of PF/ESI are to be verified and there is disallowance as per the intimation U/sec 143(1) of the Act and the assessee has made deposits/payments within the due date and the grace period allowed under the respective Acts. The Ld.AR pleaded for one more opportunity before the lower authorities to substantiate with the material

evidences. Per Contra, the Ld. DR supported the order of the CIT(A)..

5. We heard the rival submissions and perused the material on record. The sole matrix of the disputed issue is with respect to the disallowance of provident fund(PF) and ESIC made by the AO u/sec 143(1) of the Act. The contentions of the Ld.AR that, the assessee has deposited the employees contributions of PF & ESIC within the grace period allowed under respective acts and in some cases, were the due date of deposit of PF&ESIC falls on the public holiday and in such cases, the contribution was deposited on the next working day and these details were overlooked by the lower authorities and prayed for one more opportunity of hearing before the lower authorities. We find the return of income was processed under 143(1) of the Act and we considering the facts, circumstances and the submissions and to meet the ends of justice, shall provide one more opportunity of hearing to the assessee to substantiate the claim before the assessing officer and therefore for limited purpose, we restore the disputed issues to the file of the Assessing officer to examine and verify the claim

and decide on the merits. And the assessee should be provided adequate opportunity of hearing and the assessee should cooperate in submitting the information and we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 23.10.2023.

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 23.10.2023
KRK, PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Mumbai
6. Guard File

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Asst. Registrar)
ITAT, Mumbai