

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 357/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2021-22)

Gennex Laboratories Limited,
Hyderabad
[PAN No. AABCP3078M] Vs. DCIT, Circle-2(1),
Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Srinarayan Toshniwal, AR
(Through virtual mode)

राजस्व द्वारा/Revenue by: Shri Srikanth Reddy Y. DR

सुनवाई की तारीख/Date of hearing: 19/12/2023

घोषणा की तारीख/Pronouncement on: 26/12/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 09/05/2023 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Gennex Laboratories Limited ("the assessee") for the assessment year 2021-22, assessee preferred this appeal.

2. At the outset, we noticed that assessee preferred this appeal with a delay of two days. In this connection, the Managing Director of the

assessee filed an affidavit, attributing the reason for delay in filing the appeal that the time period of 60 days ends on Saturday, which was a holiday due to second Saturday and also due to unaware of the fact that the appeal should be filed on-line. Hence, the delay occurred in approaching the Registry and coming to know of the on-line procedure. There is no reason as to why this explanation of the assessee cannot be accepted. As a matter of fact, learned DR fairly concedes to condone the delay. Recording the same, we condone the delay and proceed to hear the matter on merits.

3. Brief facts of the case are that for the assessment year 2021-22, assessee filed return of income declaring total income of Rs. 5,80,35,960/- on 30/03/2022. Intimation under section 143(1) of the Income Tax Act, 1961 (for short "the Act") was served on 13/11/2022, adding back an amount of Rs. 26,91,060/-, which includes Rs.20,42,722 (u/s 37) towards late payment of employees share of ESI and PF, Rs.6,45,041/- towards gratuity related to assessment year 2021-22 and Rs. 3,298 with reference to bonus related to assessment year 2020-21 and paid in assessment year 2021-22. In reply assessee submitted that though such payments were made later than the due dates prescribed in the given statutes; the same were made well before the due date of filing of return of income under section 139(1) of the Act. Assessee also submitted that during the assessment year 2021-22, it had paid the employee share of ESI/PF well before the time allowed for filing the return of income. Learned Assessing Officer, however, added the entire amount to the income of the assessee. Aggrieved, assessee filed appeal before the learned CIT(A).

4. Learned CIT(A) confirmed the same relying on the decision of the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., Vs. CIT, [2022] 143 taxmann.com 178 (SC).

5. Sole issue involved in this matter, therefore, as stated by the counsel on either side, relates to the addition on account of delay in

remittance of ESI/PF. There is no dispute on facts and as a matter of fact, learned Assessing Officer noted the due date for payment and the actual date of payment and thereby demonstrated that the remittance was beyond the due date specified in the Provident Fund Act. What all the learned AR said is that all the payments were made before the due date of filing of return of income under section 139(1) of the Act. This issue is, however, squarely covered by the decision of the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., Vs. CIT (supra) against the assessee. Respectfully following the same, we dismiss the grounds of appeal raised by the assessee.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on this the 26th day of December, 2023.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 26/12/2023

TNMM

Copy forwarded to:

1. Gennex Laboratories Limited, Sy. No. 133, Bollaram, Jinnaram Mandal.
2. DCIT, Circle-2(1), Hyderabad.
3. Pr.CIT, Hyderabad
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD