

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**

ITA No.2339/Del/2019  
Assessment Year: 2015-16

<b>DCIT Circle – 27 (1) New Delhi</b>	<b>Vs.</b>	<b>Wah Holidays Pvt. Ltd. 121, 3<sup>rd</sup> Floor, Sec-44, Gurgaon PAN No.AABCW0776D</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Prakash Nath Baranwal, CIT DR
Respondent by	Sh. Sunil Garg, CA

Date of hearing:	10/01/2024
Date of Pronouncement:	16/01/2024

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-9, New Delhi dated 26.12.2018 pertaining to A.Y. 2015-16.

2. The grievance of the revenue reads under :-

1. *On the facts and circumstances of the case, CIT(A) has erred in deleting the addition of Rs. 11,99,99,025/- made by the AO u/s 68 of the Income Tax Act, 1961."*

2. *"Whether for application of section 68 of the Income Tax Act, 1961 transaction with resident entities in an essential legal requirement."*

3. *"Whether the Ld. CIT(A) is legally correct in deleting the addition made u/s 68 of the Income Tax Act, 1961, without considering legislative intent of Section 68 of the Income Tax Act, 1961."*

4. *"On the facts and circumstances of the case, the Ld. CIT(A) erred in deleting the disallowance of Rs. 56,364/-, made by the Assessing Officer for delayed payment of Employee's Contribution of ESI/PF, by holding that these payments were made by the assessee before filing of return relying on the judgement of jurisdictional High Court given in the case of CIT Vs AIMIL Ltd./CIT Vs. SPL Industries without appreciating the judgements given by the Hon'ble High Court in the case of M/s. Unifac Management Services India Pvt. Ltd.Vs. The Deputy Commissioner of Income Tax, Corporation Circle-3(2), W.P. No. 5264 of 2018 (Madras), Commissioner of Income-II, Vs. Gujarat State Road Transport Corporation (2014) 366 ITR 170 (Guj.), and Commissioner of Income Tax Vs. Merchem Ltd. 2015 280 CTR 381 (KER) and the CBDT's Circular No. 22/2015 dated 17.12.2015."*

5. *The appellant craves, leave or reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."*

3. Briefly stated the facts of the case are that during the course of the scrutiny assessment proceedings the AO noticed that the assessee has received a sum of Rs.11,99,99,025/- from M/s. Matrix Partners India Investment LLP Mauritius, a foreign

company towards subscription of 16985/- convertible preference shares at premium of Rs.7055/-. In order to find the creditworthiness of the investor, financial accounts and copy of the bank account of the investor from where investments were made, were asked to be furnished. The assessee did not furnish the requisite documents and the AO referred the cases to FT and TR. The documents were arranged from Mauritius Revenue authorities alongwith copy of the bank statement for the period April-2011 to March 2016. On perusal of the bank statements the AO found that on the date of remittance a similar amount was credited under the narration SCB/BTR/0724/003 on the same day. The assessee was asked to explain source of source of share capital. On receiving no plausible reply the AO formed a belief that source of funds at the end of Matrix Partners India Investment LLP Mauritius is not ascertained, therefore, creditworthiness of Matrix is in question and went on to make addition of Rs.11,99,99,025/-.

4. Proceeding further the AO found that the contribution of employees Provident Fund was deposited after the due date. The AO accordingly made the addition of Rs.18826/-.

5. Assessee agitated the matter before the CIT(A) and vehemently contended that the Mauritius Authority has collected and provided financial details of the investor company namely

Matrix to the income tax department through FTTR which in turn provided to the AO.

6. After considering the facts and the submissions and the documentary evidences brought on record the CIT(A) was convinced that the assessee has furnished all due details pertaining to this investment which includes certificate of foreign inward remittance as issued by the Standard Chartered Bank which clearly mentioned that an amount of foreign currency has been received by the assessee company. Being convinced with the documentary evidences the CIT(A) deleted the impugned addition.

7. Before us the DR could not point out any factual error in the findings of the CIT(A) and fairly admitted that the remittance alongwith the financial statements/ bank statements have been examined by FT and TR. On these facts we do not find any reason to interfere with the findings of the CIT(A) ground No.1, 2 and 3 are dismissed.

8. In so far as the delay in deposit of employees contribution towards ESI is concerned this issue is now well settled in favour of the revenue and against the assessee by the order of the Hon'ble Supreme Court in the case of Check Mate Services Private Limited 448 ITR 518. Respectfully following the same ground No.4 is allowed.

9. In the result, the appeal of the revenue is partly allowed.

Sd/-  
**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:- .01.2024

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI