

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G., Accountant Member

आयकर अपील सं./I.T.A. No.1041/Chny/2023
निर्धारण वर्ष/Assessment Years: 2019-20

Gurusamy Aadhinakaran,
25, Vignesam Layout, Gandhinagar II
Extn., Udumalaipet, Tiruppur 642 126.

Vs. The Income Tax Officer,
Ward 1, Pollachi.

[PAN:ACLPA5394G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Kumaresh, CA
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 04.01.2024
घोषणा की तारीख /Date of Pronouncement : 18.01.2024

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi, dated 25.05.2023 relevant to the assessment year 2019-20.

2. The appeal filed by the assessee is delayed by 12 days in filing the appeal and filed a petition for condonation of delay in support of an affidavit to which; the Id. DR has not raised any serious objection.

Consequently, since the assessee was prevented by sufficient cause, the delay in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee filed return of income for the assessment year 2019-20 on 31.10.2019 declaring total income of ₹.70,84,090/-. The assessment has been completed under section 143(1) of the Income Tax Act, 1961 ["Act" in short] by making disallowance of employees contribution towards Provident Fund and ESI not deposited on or before the due date under section 36(1)(va) of the Act being ₹.10,24,122/- and added exempted income of ₹.22,963/- (interest on PPF account). On appeal, by following the decision in the case of Checkmate Services Pvt. Ltd. v. CIT [2022] 143 taxmann.com 178 (SC) the Id. CIT(A) confirmed the additions and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing copy of the details of remittance as well as holidays' list of the ITAT, the Id. Counsel for the assessee has argued that the due date of remittance being Government holidays (in May & July), it cannot be reckoned as delay when the assessee has remitted the

payment on the next immediate working day, as was done in most of the months.

5. On the other hand, the Id. DR has submitted that since the payments are made in the electronic mode and whether the office of the Department or the assessee are closed on certain date or not, being gazetted holidays, cannot be ignored while reckoning the due date.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. While passing the order under section 143(1) of the Act, the CPC disallowed the PF & ESI remittance on the ground that the same were not deposited on or before the due date under section 36(1)(va) of the Act. The contention of the assessee is that since the due date of remittance being Government holidays (in May & July), it cannot be reckoned as delay when the assessee has remitted the payment on the next immediate working day and prayed for allowing the deduction claimed by the assessee. However, the above fact was not considered by the Id. CIT(A). In view of the above, we remit the matter back to the file of the Assessing Officer to verify the details of remittance and decide the

issue in accordance with law by affording an opportunity of being heard to the assessee.

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

Order pronounced on 18th January, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 18.01.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.