

आयकर अपीलिय अधिकरण  
मुंबई पीठ“सी”, मुंबई  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री गगन गोयल, लेखाकार सदस्य के समक्ष  
IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “C”, MUMBAI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER  
आ.अ.सं.2974/मुं/2023 (नि.व.2020-21)  
ITA NO.2974/MUM/2023 (A.Y. 2020-21)

Ideal Chemi Plast Pvt. Ltd.,  
Plot No.A1 & A2, Kulgaon,  
Badlapur MIDC, Ambernath,  
Badlapur E.D.B.O – 421 503.  
PAN: AABCI-2293-R

..... अपीलार्थी/ Appellant

बनाम Vs.

Asstt.Commissioner of Income Tax, CPC,  
Banglore, Karnataka.

..... प्रतिवादी/Respondent

Assessee by : Shri Satya Prakash Singh  
Revenue by : Shri H.M.Bhatt

सुनवाई की तिथि/ Date of hearing : 28/12/2023  
घोषणा की तिथि/ Date of pronouncement : 05/01/2024

**आदेश/ORDER**

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short ‘the CIT(A)’] dated 29/07/2023, for Assessment Year 2020-21.

2. Shri Satya Prakash Singh appearing on behalf of the assessee submitted that the assessee is in appeal against disallowance of contributions towards Provident Fund(PF) and gratuity Rs.8,72,245/- and amount payable to employees as bonus/commission Rs.75,97,577/- u/s.43B of the Income Tax Act, 1961 [in short ‘the Act’]. The Id.Authorized Representative of the assessee submitted that the return of income of the assessee for Assessment Year 2020-

21 was processed u/s. 143(1) of the Act vide intimation dated 18/12/2021. An addition of Rs.84,69,822/- (Rs.8,72,245 + Rs.75,97,577) u/s. 43B of the Act was made stating to be discrepancy between the return of income and Audit Report. He asserted that the aforesaid amounts were not strictly required to be reported in Audit Report separately. The said amounts are part of total addition reported in Schedule BP-Part-A(Row-18) and included in Rs.95,86,092/-. The disallowance made u/s. 43B of the Act has resulted in disallowances of the same amount twice. The assessee carried the issue in appeal before the CIT(A). The assessee submitted that Bank Statement to show that the amount towards gratuity and PF were deposited well in time as provided in respective Acts. Further, the assessee had also furnished ledger account to show that the provision of bonus was for the period 01/04/2019 to 31/03/2020, pertaining to Assessment Year 2020-21. The CIT(A) without appreciating the documents on record confirmed the addition, hence, the present appeal. The Id.Authorized Representative of the assessee submitted that the Auditors of the assessee has issued fresh Certificate (at page 28 of paper book) the same was placed before the CIT(A), however, the same was not considered by him.

3. Per contra, Shri H.M.Bhatt representing the Department vehemently defended the impugned order and prayed for dismissing appeal of the assessee.

4. Both sides heard, orders of authorities below examined. The solitary issue in appeal is against disallowance made u/s. 43B of the Act. During the course of assessment proceedings an adjustment of Rs.8,72,245/- was made on account of gratuity and PF and Rs.75,97,577/- were disallowed in respect of bonus and commission payable to the employees on the ground that there is

inconsistency in the return and Auditors report. The assessee has placed on record a Certificate from the Auditors. The contention of the assessee is that PF and gratuity amounts were paid before the due date as specified under the relevant Acts and the bonus and commission to the employees pertain to the period relevant to the Assessment Year under appeal. Taking into consideration entire facts, we deem it appropriate to restore the file to the Assessing Officer to examine the Certificate dated 23/05/2022 issued by the Auditors ( at pages 28 and 29 of the paper book) and other supporting documents placed on record. The Assessing Officer shall re-examine the issue and allow reasonable opportunity to the assessee to make submissions and explain before passing the order, in accordance with law.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Friday the 5<sup>th</sup> day of January, 2024.

Sd/-

(GAGAN GOYAL)

लेखाकार सदस्य / ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/ Dated 05/01/2024

Vm, Sr. PS(O/S)

**प्रतिलिपि अग्रेषित** Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
- 4.. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/ Guard file.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य / JUDICIAL MEMBER

BY ORDER,

//True Copy//

(Dy./Asstt.Registrar),ITAT, Mumbai