

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE VICE PRESIDENT
AND
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

**आ.अ.सं./I.T.A Nos.629, 630 & 631/Del/2023
निर्धारणवर्ष/Assessment Years: 2009-10, 2020-21 & 2019-20**

Skylark Infra Engineering Pvt. Ltd., Ch. No.206-207, Ansal Satyam, RDC, Rajnagar, Ghaziabad, Uttar Pradesh.	बनाम Vs.	ACIT Central Circle, Aaykar Bhawan, Sector-12, Karnal, Haryana.
PAN No.AAHCS2358H		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri Akhilesh Kumar, Adv. & Shri Ankit Kumar, Adv.
Revenue by	Shri Anuj Garg, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	09.11.2023
उद्घोषणाकीतारीख/ Pronouncement on	31.01.2024

आदेश /O R D E R

PER C.N. PRASAD, J.M.

These three appeals are filed by the Assessee against different orders of the Ld. CIT(Appeals)-3, Gurgaon for the assessment years 2009-10, 2019-20 & 2020-21. The only grievance of the assessee in its appeal for the AY 2009-10 in ITA No.629/Del/2023 is that the credit for TDS was granted only for Rs.24,83,521/- as against Rs.49,05,259/- as reflected in Form 26AS.

2. The Ld. Counsel for the assessee, at the outset, submits that the Ld. CIT(A) rejected the claim for TDS of Rs.24,20,092/- observing that the assessee has not filed copy of Form 26As and ITR which is contrary to record. Ld. Counsel submits that this is the first year where the Revenue is generating Form 26As and the assessee has duly explained the difference in TDS by filing necessary details. The Ld. Counsel submits that the direction may be given to the Assessing Officer to allow credit for TDS on the income returned by the assessee for the assessment year under consideration.

3. Ld. DR has no serious objection.

4. Considering the rival submissions, we restore the issue to the file of the Assessing Officer with a direction to allow credit for TDS to the assessee on the corresponding income which was reflected by the assessee in its return of income. Grounds raised by the assessee are allowed for statistical purpose.

5. Coming to the appeals for the assessment years 2019-20 and 2020-21 the only grievance of the assessee is with respect to disallowance of deductions made towards Provident Fund & ESI contributions. Ld. Counsel submits that some of the payments made are within the due date specified in the respective Acts and,

therefore, the direction may be given to the Assessing Officer to allow those contributions which were paid within the due date specified under the Act.

6. Ld. DR has no serious objection.

7. Considering the rival submissions, we restore the issues in appeal for AY 2019-20 and 2020-21 to the file of the AO with a direction to allow deduction for contributions towards PF and ESI which were made within the due date specified under the respective Acts. Grounds raised by the Assessee in these appeals are allowed for statistical purpose.

8. In the result, all the three appeals are allowed for statistical purpose.

Order pronounced in the open court on 31/01/2024

Sd/-
(G.S. PANNU)
VICE PRESIDENT

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Dated: 31/01/2024

**Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi