

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “ए”, कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**  
श्री संजय गर्ग, न्यायिक सदस्य एवं श्री राजेश कुमार, लेखा सदस्य के समक्ष  
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

**I.T.A. No. 1198/Kol/2023**  
**Assessment Year: 2018-19**

SREI Equipment Finance Limited (PAN: AAKCS 3431 L)	Vs.	ACIT, NEAC, Delhi/ AO, Circle-11(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	10.01.2024
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	19.02.2024
For the Appellant/ निर्धारिती की ओर से	Shri S.K. Tulsian, Advocate Lata Goyal, ACA
For the Respondent/ राजस्व की ओर से	Shri Subhendu Datta, CITDR

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is the appeal preferred by the assessee against the order of the Ld. Ld. Commissioner of Income Tax (Appeal)-2, Coimbatore (hereinafter referred to as the Ld. CIT(A)"] dated 27.09.2023 for the AY 2018-19.

2. The only issue involved in the present appeal before us is against the order of Ld. CIT(A) confirming the addition of Rs. 1,57,509/- as made by the AO on account of late payment of PF/ESI.

3. After hearing the rival contentions and perusing the material on record, we find that the addition made by the AO was in respect of disallowance of employees contribution to ESI on the ground of late payment. However we note from the records before us that the last day of depositing ESI's contribution happened to be Sunday and therefore the payment was made immediately in the next following date i.e. Monday. The detail is extracted below:

<b>Month of deduction</b>	<b>Amount deducted (Rs.)</b>	<b>Due Date of payment</b>	<b>Actual date of payment</b>	<b>No. of days of delay</b>
Sept'2017	1,17,518/-	15.10.2017	16.10.2017	0
Sept'2017	23,050,	(Sunday-Holiday)	17.10.2017	1
Sept'2017	16,941		17.10.2017	1

It is clear from the table that Rs. 1,17,518/- which was due on 15.10.2017 was paid on 16.10.20217 and therefore there is no delay in making the payment. In respect of other two payments of Rs. 23,050/- and Rs. 16,941/- , there is delay of one day as payment were made on 17.10.2017. The case of the assessee is squarely covered by the decision of Co-ordinate Bench of Delhi in the case of GD Foods and Manufacturing (India) Pvt. Ltd. vs. ADIT [2023] 152 taxmann.com 323 (Delhi-Trib.) (10.07.2023) in which the Co-ordinate Bench held as under:

*“11. Thus, in our opinion, considering the fact that the due date of de positing the contribution of ESIC & EPF falls on Sunday and gazette holiday, the said delay of one day deserves to be condoned as per Section 10 of General Causes Act. Further it is also observed that the assessee has no intention not to deposit the contribution of ESI & EPF well within the time, depositing the contribution very next day of Holiday proves the bona-fide of the assessee Therefore in our opinion, the authorities have committed error in disallowing the deposit made with one day delay where the due date under respective acts falls either on Sunday or on gazette holiday.*

*12. In view of the above discussion, we allow Ground no. 3of the assessee and delete the disallowance of delay deposit of one day on account of public holiday/Sunday on ESIC of Rs. 3,89,086/- and EPF of Rs . 15,47,915/-.”*

Accordingly we set aside the order of Ld. CIT(A) and direct the AO to allow the claim of Rs. 1,17,518/- which was paid on 16.10.2017. The appeal is partly allowed.

4. In the result, the appeal of the assessee is partly allowed.

Order is pronounced in the open court on 19<sup>th</sup> February, 2024

Sd/-  
(Sanjay Garg /संजय गर्ग)  
Judicial Member/न्यायिक सदस्य

Sd/-  
(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 19<sup>th</sup> February, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- SREI Equipment Finance Limited, 86C, Vishwakarma, Topsia Road(South), Topsia, Kolkata-700046
2. Respondent – Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National e-assessment Centre-Delhi
3. Ld. CIT(A)-2, Coimbatore
4. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata