

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Vice-President
AND
Shri Laliet Kumar, Judicial Member

आ.अपी.सं / **ITA No.95/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2020-21)

Synergies Castings Ltd Hyderabad PAN:AAICS7410H (Appellant)	Vs.	Asstt. C. I. T. Circle 3(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by: Advocate A. Aruna		
राजस्व द्वारा/Revenue by: Shri Shakeer Ahmed, DR		
सुनवाई की तारीख/Date of hearing: 12/03/2024		
घोषणा की तारीख/Pronouncement: 13/03/2024		

आदेश/ORDER

Per R.K. Panda, Vice-President

This appeal filed by the assessee is directed against the order dated 04/12/2023 passed by the learned CIT (A)-Bengaluru relating to A.Y.2020-21.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) in sustaining the disallowance made by the CPC Bengaluru u/s 143(1) towards delayed remittance of Employees contribution to PF & ESI amounting to Rs.1,68,86,060/-.

3. Facts of the case, in brief, are that an amount of Rs. 1,68,86,060/- was added by the CPC Bengaluru in the intimation u/s 143(1) on account of late payment of employees' contribution to PF & ESI as per the respective Acts.

4. Before the learned CIT (A), the assessee relying on various decisions submitted that they made all the payments before the due date as prescribed u/s 139(1) of the Act for filing of the return of income and therefore, no addition/disallowance should be made. However, the learned CIT (A) rejecting the various explanations given by the assessee held that the amount of Employees' Contribution to PF & ESI paid by the assessee before the due date as prescribed u/s 139(1) cannot be allowed as a deduction u/s 43B of the I.T. Act. He held that since the amounts were received from the Employees are deemed as income of the assessee u/s 2(24)(x) of the I.T. Act and since the same has not been deposited within the due date prescribed under the said Acts, therefore, the same is not deductible u/s 36(1)(va) of the I.T. Act. Accordingly, the appeal filed by the assessee was dismissed.

5. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

6. We have heard the rival contentions and perused the material available on record. It is an admitted fact that an amount of Rs. 1,68,86,060/-being employees' contribution to PF and ESI have not been deposited on or before the due dates provided under the respective Acts, but has been deposited before the due date as prescribed u/s 139(1) for filing of the return of income. We

find the issue now stands decided against the assessee by the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT vide civil appeal No.2833 of 2016 order dated 12th October 2022, wherein the Hon'ble Supreme Court has held that if the Employees' contribution to PF & ESI are not deposited before the statutory due dates mentioned in the respective Act, the same cannot be allowed as a deduction. Since admittedly, the assessee, in the instant case, has not deposited the Employees' Contribution to PF & ESI before the statutory due dates but has deposited the same before the due date prescribed u/s 139(1) for filing of the return of income, therefore, the learned CIT (A) NFAC was fully justified in upholding the addition/disallowance made by the CPC in the intimation u/s 143(1). The grounds raised by the assessee are accordingly dismissed.

7. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the Open Court on 13th March, 2024.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 13th March, 2024

Vinodan/SPS

Copy to:

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1	Synergies Castings Ltd, Flat No.4A, D.No.6-3-855/10/A Sampathji Apartments, Sadat Manjil, Ameerpet, Hyderabad
2	ACIT, Circle 3(1) Signature Towers, Opp: Botanical Gardens, Serilingampally (M) RR Distt. Hyderabad 500084
3	Pr. CIT - Bengaluru
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order