

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'SMC' NEW DELHI)**

**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.569/Del/2024A.Y. 2022-23

Profic Organic Limited B-222, Layak Ram Complex, Badarpur, New Delhi-110044 PAN No.AAACP7369J	Vs.	ITO Ward- 20 (1) New Delhi
Appellant		Respondent

Assessee by	Sh. Sanjay Sood, CA
Revenue by	Sh. Om Prakash, Sr.DR

Date of Hearing	01/05/2024
Date of Pronouncement	03/05/2024

ORDER

PER MADHUMITA ROY, JM:

The instant appeal, filed at the behest of the assessee is directed against the order dated 12.12.2023 passed by the CIT(A), Additional / JCIT (A)-8, Mumbai arising out of the order dated 10.02.2023 passed by the AO, CPC, Bengaluru under Section

143(1) of the IT Act, 1961(hereinafter referred to as “the Act”) for Assessment Year 2022-23.

2. The crux of the matter is this that the assessee challenged the addition of Rs.6,00,000/- made by the AO CPC, Bengaluru in the intimation under Section 143 (3) dated 08.12.2021 for A.Y.2020-21. The said amount was paid as gratuity to LIC trust. Such disallowance was made on account of provision of gratuity. However, such disallowance was made due to the reason the appellant claimed the deduction of Rs.6,00,000/- under Section 43B on account of leave encashment which was disallowed in any preceding previous year but allowable during the previous year. Such adjustment is reflected at serial Number 34 of the intimation order under Section 143 (1) of the Act. Further that upon perusal of the return of income filed by the appellant it was found that at Serial number 10(f) the appellant has claimed an amount of any sum payable at Rs.6,00,000/-. whereas the audit report under 3CD at serial number 26 the amount of leave encashment which pre-existed on the first day of the previous year but was not

allowed in the assessment of any previous year and was paid during the previous year was mentioned as Nil.

3. It was further confirmed by the First Appellate Authority. Hence, instant appeal before us.

4. In this connection the Ld. AR, at the time of hearing of the instant appeal, drew our attention to page No. 101 to 102 of the paper book filed before us being the computation of income filed by the assessee.

5. In fact, instead of mentioning of Rs.6,00,000/- in column 10(b) specifying sum payable by way of contribution to any provident fund/ superannuation / gratuity fund any other fund for welfare of the employees, the same was mentioned in column 10 (f) where the details in respect of sum payable towards leave encashment is supposed to be filed in. As this mistake has been done inadvertently by the assessee, the CPC has denied the claim of the assessee which was further confirmed by the First Appellate Authority.

6. The LIC receipt of Rs. 6,00,000/- paid towards gratuity fund is also annexed to the paper book filed before us at page 97 to 100 therein.

7. Under the facts and circumstances of the matter it was prayed by the Counsel for the assessee that such mistake inadvertently made by the assessee be ignored and the CPC be given a direction to consider the same to pass order in accordance with law in support of the claim made by the assessee. Such prayer, however, has not been controverted by the Ld. AR with all his fairness.

8. Having heard the ld. Counsel appearing for the respective parties and having regard to the facts and circumstances of the case we are of the considered opinion that the mistake which has been narrated hereinabove inadvertently done by the assessee needs to be considered. Merely technical mistake made by the assessee while filing up by the form cannot be a ground of disallowing the claim of the assessee when such mistake is curable

in nature. We thus, considering the entire aspect of the matter, set aside the issue to the file of the AO, CPC to reconsider the issue afresh upon considering the error inadvertently done by the assessee and to further consider the payment made to the tune of Rs.6,00,000/- being gratuity paid to LIC trust at column 10 (b) and to pass orders in accordance with law.

9. With the above directions the matter is disposed of. In the result, the present appeal is allowed for statistical purpose.

Order pronounced in the open court on 03rd May, 2024.

Sd/-

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Date:- 03.05.2024

*Neha, Sr.P.S

Sd/-

**(MADHUMITA ROY)
JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI