

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.359/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2018-19)

M/s Inscribe Graphics Ltd. 174, Developed Plots, Industrial Estate Perungudi, Chennai – 600 096	बनम / Vs.	DCIT Corp. Circle 1(1) Chennai – 600 034
स्थायी लेखासं./जी आइ आरसं./PAN/GIR No. AACCI-0211-Q		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri P.M.Kathir (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri ARV Srinivasan (Addl. CIT) – Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	29-04-2024
घोषणा की तारीख / Date of Pronouncement	:	01-05-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 17-01-2024 in the matter of an intimation issued by CPC u/s 143(1) on 17.06.2020. In the intimation, CPC disallowed a sum of Rs.19.46 Lacs on account of failure to deposit employees' contribution to ESI / PF before due date as specified in respective welfare acts.

During appellate proceedings, the assessee contended that the adjustment was beyond the scope of Sec. 143(1) since it was a debatable issue. It was also contended that PF was remitted within 15 days from the disbursement of salary as permitted under the act. The Ld. CIT(A), relying on the decision of Hon'ble Supreme Court in the case of **Checkmate Services Pvt. Ltd. (143 Taxmann.com 178)**, confirmed the disallowance. The Ld. CIT(A) also held that this adjustment could be made while processing return of income u/s 143(1) as per various decisions of Tribunal. Aggrieved, the assessee is in further appeal before us.

2. The Ld. AR reiterated that this adjustment could not be made u/s 143(1). The Ld. AR also submitted that the ground that PF was remitted within 15 days from the disbursement of salary as permitted under the act, was not adjudicated by Ld. CIT(A). The Ld. Sr. DR opposed any interference in the impugned order.

3. We find that the issue on merits is squarely covered against the assessee by the cited decision of Hon'ble Supreme Court. This adjustment could also be made u/s 143(1) as per various decision of Tribunal including the decision of Chennai Tribunal in **M/s Shree Gokulam Chit & Finance Co. Pvt. Ltd. (MA Nos. 97/Chny/2023 & ors. dated 31.07.2023)**. So far as the argument that PF was remitted within 15 days from the disbursement of salary as permitted under the act, is concerned, this aspect has not been dealt with by Ld. CIT(A). For the aforesaid limited purpose, we restore the matter back to the

file of Ld. CIT(A) to deal with the same. The assessee is directed to substantiate the same.

4. The appeal stand partly allowed for statistical purposes.

Order pronounced on 1st May, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated :01-05-2024

DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF