

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C', NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**I.T.A. No. 466/Del/2024
(Assessment Year : 2018-19)**

Jagmohan Motors Pvt.
Ltd., Sonapat Road,
Rohtak,
Haryana – 124 001

Vs. ACIT
Rohtak Circle
Haryana – 124 001

PAN: AAACJ 7090 E

(Appellant)

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(Respondent)

Appellant by : Shri Naveen Gupta, Adv.
Respondent by : Shri Sandeep Kr. Mishra, Sr.
D.R.

Date of Hearing 08.05.2024
Date of Pronouncement 15.05.2024

ORDER

PER MS. MADHUMITA ROY – JUDICIAL MEMBER :

The instant appeal filed by the assessee is directed against the order dated 24.01.2024 passed by the Commissioner of Income Tax (Appeals), NFAC, Delhi under section 250 of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') arising out of the assessment order passed under Section 143(3) of the Act for the Assessment Year (A.Y.) 2018-19, whereby and where under, the addition to the tune of Rs.68,63,749/- under section 36(1)(va) of the Act was made by the AO, has been confirmed for A.Y. 2018-19.

- 2 -

2. The brief facts leading to this case is that the addition has been made in respect of late deposit of employer and employee's contribution of PF and ESI to the tune of Rs.68,63,749/- under Section 36(1)(va) of the Act. However, admittedly, the appellant has paid employer's contribution before the due date of return. In that view of the matter, the addition is initially liable to be restricted to the tune of Rs.29,54,118/- in respect of late deposit of employee's contribution of PF and ESI and not Rs.68,63,749/- as has been conceded by the Learned Counsel appearing for the assessee. It is further contended that the above fact of depositing employer's shares of ESI and PF is also mentioned by the auditors in Column No. 4 of Clause 21(ii) in Form 3CD for A.Y. 2018-19. Thus, the Learned Counsel for the assessee prays for setting aside the issue to the file of the Learned AO to decide the issue afresh. Such prayer made by the Learned AR has not been opposed by the Learned DR with all his fairness.

3. Having heard the Learned Counsel appearing for the parties, having regard to the facts and circumstances of the case, we dispose of this appeal by setting aside the issue to the file of the Learned AO to adjudicate the same considering the fact of depositing employer's contribution of PF and ESI by the appellant, having regard to the Form 3CD and the total Challans in respect of such deposit made by the appellant. While making assessment, the Learned AO is further directed to grant an opportunity of being heard to the assessee and to consider any other evidence which the assessee may choose to file at the time of hearing of the matter.

- 3 -

4. In the result, this assessee's appeal is, therefore, allowed for statistical purposes.

This Order pronounced in Open Court on 15/05/2024

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Dated 15/05/2024

Priti Yadav, Sr.PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI