

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.514/Bang/2024
Assessment Year : 2020-21

M/s. Signotech Systems Pvt. Ltd., L-151, 2 <sup>nd</sup> Floor, CK Pearl Complex, 14 <sup>th</sup> Cross, 5 <sup>th</sup> Main, 6 <sup>th</sup> Sector, HSR Layout, Bengaluru – 560 102. <b>PAN : AAVCS 6085 P</b>	Vs.	DCIT, Circle – 6(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sunaiana Bhatia, CA
Revenue by	:	Shri. Subramanian S, JCIT (DR)(ITAT), Bengaluru.

Date of hearing	:	06.05.2024
Date of Pronouncement	:	06.05.2024

**ORDER**

***Per George George K, Vice President:***

This appeal at the instance of the assessee is directed against CIT(A)’s order dated 29.02.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2020-21.

2. The Grounds raised read as follows:

1. *The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*

2. *The learned Addl/Joint Commissioner of Income tax [Appeals] - 1, PUNE/ National Faceless Appeal Centre [NFAC for short] is not justified in upholding the determination of total income of appellant in the Intimation u/s. 143[1] of the Act, at Rs. 1,40,72,000/- as against the returned income of Rs. 1,12,72,000/- and in the circumstances of the appellant's case.*
  3. *The learned Addl/Joint Commissioner of Income tax [Appeals] - 1, PUNE/National Faceless Appeal Centre is not justified in upholding the disallowance of a sum of Rs. 28,04,527/- u/s.36[1][va] of the Act, being the Employees Contribution to PF/ESI for the months of April, 2019, May, 2019 and June 2019 erroneously reported in Form 3CD under the facts and in the circumstances of the appellant's case.*
  - 3.2 *The learned Addl/Joint Commissioner of Income tax [Appeals] - 1, PUNE/ National Faceless Appeal Centre failed to appreciate that the appellant had remitted the employees contribution to PF/ESI within the prescribed time however, in the Audit Report the year of payment for the months of April, May and June was erroneously mentioned as "2020" instead of "2019" and therefore, no disallowance was warranted.*
  4. *Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies itself liable to be charged to interest u/s 234B and 234C of the Act which under the facts and in the circumstances of the appellant's case deserves to be cancelled.*
  5. *For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.*
3. Brief facts of the case are as follows:

Assessee is a private limited company engaged in the business of providing technical designs. For the Assessment Year 2020-21, the return of income was

filed on 13.11.2020 declaring total income of Rs.1,12,67,480/-. An intimation under section 143(1) of the Act was issued by the CPC on 24.12.2021 assessing the total income at Rs.1,40,72,000/-. Sum of Rs.28,04,527/- being employees' contribution to ESI and EPF was disallowed under section 36(1)(va) of the Act for the reason that same was not paid within the due date prescribed under the respective Acts.

4. Aggrieved by the disallowance under section 36(1)(va) of the Act, assessee preferred appeal before the CIT(A). Before the CIT(A), it was contended that there was no delay in the payment of employees' contribution for the months of April, May and June, 2019. It was stated that in the audit report the year was erroneously mentioned as "2020" instead of "2019". In support of the payment made before the due dates, assessee attached payment confirmation receipts. The CIT(A) held that payment confirmation receipts could not be sufficient evidence to prove that payment of employees' contribution in the months of May, June and July, 2019 was made within the prescribed due date. The CIT(A) also held that audit report has also not been corrected by the assessee and the revised audit report was not submitted before him. Therefore, it was held by the CIT(A) that it has to be assumed based on the audit report that there is a delay in payment of employees' contribution for the months of April, May and June. Since the employees' contribution was assumed to be paid not within the due date prescribed under the respective Act, the CIT(A) following the judgment of the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., reported in 448 ITR 518 (SC) upheld the adjustment made under section 143(1) of the Act.

5. Aggrieved by the Order of the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has filed a Paper Book enclosing therein the written

submissions filed before the CIT(A) and relevant annexures along with it. The learned AR reiterated the submissions made before the CPC and CIT(A).

6. Learned DR supported the Order of the CIT(A).

7. We have heard the rival submissions and perused the material on record. Assessee had received a proposal under section 143(1) of the Act for making adjustment to the returned income (proposal dated 21.09.2021). In response to the same, assessee filed its objections on 22.09.2021 which reads as follows:

*“The aforesaid sums of PF and ES/ for the months of April, May, June, 2019 have all been remitted within the prescribed monthly due dates. In the tax audit report the year 2019 has been wrongly mentioned as 2020. It is only a typographical error. Therefore kindly do not disallow and request you to accept the return without any addition”.*

8. Disregarding the above objection adjustment was made under section 143(1) of the Act on 24.12.2021. The disallowance was based on the information furnished by the CA in the audit report in column 20[b] wherein the details of payment made in respect of employees' contribution to the welfare fund under section 36(1)(va) of the Act was set out. Assessee submits that it had paid employees' contribution towards PF and ESI for the months April, May and June, 2019, within the prescribed due date. However, in the audit report, the year of payment is erroneously mentioned as “2020” instead of “2019”. Assessee has also produced the confirmation receipt from the ESI and PF. In the interest of justice and equity, we are of the view that assessee should be provided with one more opportunity to prove its case that it has paid the employees' contribution within the due date prescribed under the respective Acts (thereby complying with the dictum laid down by the Hon'ble Apex Court in the case of Checkmate Services

Pvt. Ltd., (supra)). For the aforesaid purpose, the matter is restored to the files of the AO. The AO shall afford reasonable opportunity of hearing to the assessee. Assessee is directed to furnish necessary material / evidence to the satisfaction of the AO that it had paid the impugned employees' contribution within the due date prescribed. It is ordered accordingly.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(WASEEM AHMED)**  
**Accountant Member**

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 06.05.2024.

/NS/\*

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent           |
| 3. DRP        | 4. CIT                  |
| 5. CIT(A)     | 6. DR, ITAT, Bangalore. |
| 7. Guard file |                         |

By order

Assistant Registrar,  
ITAT, Bangalore.