

IN THE INCOME TAX APPELLATE TRIBUNAL, "F" BENCH
MUMBAI
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER
I T A. No. 157/MUM/2024
(A.Y.2019-20)

Santosh Devappa Shetty Sector – 9, Nerul (E), Navi Mumbai -400706.	Vs .	ITO-27(3), Vashi Railway station building, Vashi, Navi Mumbai-400703.
PAN/GIR No. AARPS9295A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	None
Revenue by	Ms. Rajeshwari Menon, Sr. DR

सुनवाई की तारीख/Date of Hearing	29.05.2024
घोषणा की तारीख/Date of Pronouncement	30.05.2024

ORDER

PER PAVAN KUMAR GADALE, JM:

The assessee has filed the appeal against the order of the National Faceless Appeal Centre(NFAC) Delhi / (CIT(A) passed u/sec 143(1) and u/sec 250 of the Act. The assessee has raised the following grounds of appeal:

- 1) The CPC is not justified in making adjustment while processing return under section 143(1) in respect of disallowance on account of delay in making payment towards contribution to provident fund and ESIC fund under 36(1)(va) read with section 2(24)(x) of the income tax act based on mere audit report, where no disallowances are reported by the auditor.*

2. The Assistant Commissioner of income tax, CPC, while processing the return of income under section 143(1) has erred in disallowing payments of Employee's Contribution to Provident fund and ESIC of an amount of Rs. 24,72,734/- under section 36(1)(va) of the Income Tax Act, 1961 which was paid to the concerned authorities before the due date of filing of returns. The CPC, without considering the judicial precedents and circumstances of the case has made additional on mechanical basis and such addition is void and against principles of natural justice.

It is prayed that the additions made may please be deleted on merits.

The applicant craves the right to adduce, add, amend, alter delete any of the grounds of appeal before or at the time of hearing of this appeal.

2. The brief facts of the case are that the assessee has filed the return of income for the A.Y 2019-20 on 30.10.2019 disclosing a total income of Rs. 57,85,844/- and the return of income was processed u/s 143(1) of the Act. Where the employees contribution (PF&ESI) aggregating to Rs. 24,72,734/- was disallowed u/s 36(1)(va) of the Act due to delay of deposit of PF & ESI under respective Acts and the total income was determined at Rs.82,58,578/- vide order u/sec143(1) of the Act dated 20.05.2020.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee and findings of the AO but has confirmed the action of the A.O. Aggrieved by the CIT(A) order. the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, none appeared on behalf of the assessee and the Ld. DR relied on the CIT(A) order.

5. We heard the Ld.DR submissions and perused the material on record. The sole matrix of the disputed issue is with respect to the disallowance of provident fund (PF) and ESIC made by the AO u/sec 143(1) of the Act. Since there was no opportunity to submit the details of deposits to the assessee as the return of income was processed U/sec143(1) of the Act. We considering the facts, circumstances and to meet the ends of justice shall provide one more opportunity of hearing to the assessee to substantiate the claims before the assessing officer and therefore for limited purpose, restore the disputed issue to the file of the Assessing officer to examine and verify the claim and decide on the merits. And the assessee should be provided adequate opportunity of hearing and the assessee should cooperate in submitting the information. Accordingly, the grounds of appeal of the assessee are allowed for statistical purposes.

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

Order pronounced in the open court on 30.05.2024.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated: 30/05/2024

KRK.PS

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Dy./Asstt. Registrar)ITAT,

Mumbai