

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 17/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2021-22

**Twin Disc Power Transmission
Pvt. Ltd.,**
No.3, EL Heights, First Floor,
CMM Street, Nungambakkam,
Chennai – 600 034.

The Income Tax Officer,
Vs. Corporate Circle 1(3),
Chennai.

PAN: AADCT 0819Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Abhishek Murali, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 06.06.2024

घोषणा की तारीख/Date of Pronouncement

: 06.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1058041157 (1) dated 17.11.2023. The return of income for the assessment year 2020-21 was processed and intimation u/s.143(1) of the Income Tax Act, 1961 (hereinafter the 'Act') was issued by

the Asst. Director of Income Tax, Central Processing Center (CPC), Bengaluru vide order dated 11.10.2022.

2. The only issue in this appeal of assessee is against the order of CIT(A)-NFAC not allowing opportunity of being heard to the assessee and has unilaterally accepted the rectification order passed by CPC, Bengaluru and not at all adjudicated anything on merits.

3. The brief facts of the case are that the assessee filed its return of income for the relevant assessment year 2020-21 on 28.02.2022. The CPC, Bengaluru processed the return and intimation u/s.143(1) of the Act was issued by making following additions:-

- 1) *Gratuity provision written back in books u/s.43B – Rs.17,43,037/-*
- 2) *Leave Encashment u/s 43B – Rs.5,33,487/-*

The assessee moved rectification vide application dated 08.11.2022 and the CPC, Bengaluru passed order by observing as under:-

The above return was processed u/s 143(1) vide DIN CPC/2122/A6/287606694 dated 11/10/2022. The assessee vide rectification request No 974147370081122 dated 08/11/2022 has stated that there is a mistake(s) in the said intimation u/s 143(1) which was apparent from record within the meaning of Section 154 of Income Tax Act, 1961. The details of the mistake(s) as per the assessee is as under:

*Particulars of mistake(s)
Reprocess*

The assessee's request has been examined and the said intimation u/s143(1) stands rectified as under”

The CPC only reprocessed the return and repeated the same addition. Aggrieved, assessee preferred appeal before CIT(A).

4. Before CIT(A), the assessee made clear contention in regard to gratuity provision written back in books of accounts u/s.43B amounting to Rs.17,43,037/- stating that during the assessment year 2020-21 relevant to financial year 2019-20, the assessee has made a provision for gratuity which was duly disallowed u/s.43B of the Act for the respective year and was offered to tax. However, the Chartered Accountant in the tax audit report has reported the same in clause 26(b) instead of clause 26(aa) and therefore, the CPC without application of mind disallowed the entire amount written back of Rs. 17,43,037/- u/s.143(1) of the Act.

4.1 Similarly, the leave encashment of Rs.5,33,487/- pertains to leave encashment which has already been disallowed u/s.43B of the Act in the previous year 2019-20. The assessee claimed to have paid leave encashment during financial year 2020-21 and hence he is eligible to claim amount paid during the year of payment and rightly claimed the same. Similarly, the Chartered Accountant in the tax audit report has reported the same in clause 26(b) instead of

clause 26(aa) and therefore, the CPC, Bengaluru without application of mind disallowed the entire amount of Rs.5,33,487/- u/s.143(1) of the Act. The same was taken up before CPC by filing rectification application but they have reprocessed the same mechanically without application of mind. The CIT(A)-NFAC on the above has not adjudicated anything but only confirmed the action of CPC by observing in para 5 & 5.1 as under:-

5. Ground No. 1,2,3, 4, 5, 6 &7. In these grounds of appeal the appellant has raised the issue of disallowance u/s 143(1).

I have perused the order u/s 154 dated 10.01.2023 and examined the submissions of the appellant. It is noticed that the current appeal has been filed against the order u/s 154 dated 10.01.2023 by the CPC. However, the appellant in its statement of facts, grounds of appeal and a written submissions has not submitted anything on merit regarding order u/s 154 dated 10.01.2023. Rather the appellant has furnished the arguments against the order u/s 143(1) dated 11.10.2022.

5.1 In view of the above, the appeal is hereby dismissed as the appellant has furnished the statement of facts, grounds of appeal and written submissions which are irrelevant to the impugned order u/s 154 dated 10.01.2023.

Aggrieved, now assessee is in appeal before us.

5. We have heard rival contentions and gone through facts and circumstances of the case. We have perused the order passed by CPC u/s.154 of the Act and also return processed u/s.143(1) of the Act. We also perused the order of CIT(A)-NFAC and facts narrated by assessee before CIT(A)-NFAC. We noted that the CIT(A)-NFAC has to give a finding on merits whether the assessee is eligible for

the claim of deduction in regard to gratuity and leave encashment. As the CIT(A)-NFAC has not at all adjudicated on merits and simpliciter non-speaking order without any iota of fact, we set aside the order of CIT(A)-NFAC and remand the same to the file of the CIT(A) for fresh adjudication. The CIT(A) is directed to pass a speaking order on the issues raised before him. In term of the above, the matter remanded back to the file of the CIT(A) and the appeal of the assessee is 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 at the time of hearing on 6th June, 2024 at Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 6th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.