

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'B': NEW DELHI)**

**BEFORE SHRI GS PANNU, VICE PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No:- 125/Del/2024
(Assessment Year: 2017-18)**

Deputy Commissioner of Income Tax, Circle 4(2), New Delhi. I.P. Estate, New Delhi.	Vs.	Coforge Limited, 8, third floor. Balaji Estate, Guru Ravi Das Marg, Kalkaji, South Delhi.
PAN No: AAACN0332P		
APPELLANT		RESPONDENT

Revenue by : Shri B.K. Singh, Sr. DR
Assessee by : Shri Alik Vasant, FCA and
Ms. Poonam Ahuja, Adv.

Date of Hearing : 16.05.2024
Date of Pronouncement : 18 .06.2024

ORDER

PER ANUBHAV SHARMA, JM

This appeal has been preferred by the Revenue against the order dated 16.11.2023 of Commissioner of Income Tax (Appeal), ADDL/JCIT (A) Madurai, [hereinafter referred to as 'Ld. CIT(A)'] in

Appeal No. CIT(A), Delhi-6/10065/2019-20 arising out of an appeal before it against the order dated 30.03.2019 passed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the Asst. Director of Income Tax, CPC, Bengaluru, (hereinafter referred as the Ld. AO) for Assessment Year 2017-18.

3. Heard and perused the records.

4. The AO had made a disallowance on the basis of fact that in Tax audit report certain amounts were shown as not allowable u/s 40A(7) of the Act. Assessee has claimed that it was inadvertent mistake. Admittedly, from the evidences submitted and appreciated by CIT(A), it is clearly evident /that the appellant had paid Rs.4,47,94,159/- towards Gratuity and Rs.2,37,581/- towards leave encashment during the previous year relevant to Assessment year 2017-18. If the tax audit report contains a negative i.e. that certain expenses e.g. are of not allowable nature then the AO can use that as 'material' for the purpose of assessment under section 143(3) of the Act, and the burden of proving its not so is on the assessee. So that way opinion of auditor is not conclusive. Here AO has not given any such opportunity to assessee and CIT(A) has

drawn conclusion on evidences showing statutory deposits during the previous years. Thus, 43B disallowance was not warranted and is rightly deleted by CIT(A). The grounds of appeal have no substance. The appeal of Revenue is dismissed.

Order pronounced in the Open Court on 18.06.2024

Sd/-
(GS PANNU)
VICE PRESIDENT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 18/06/2024.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	10.6.24
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	