

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' : NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.1804/DEL/2024
(Assessment Year: 2021-22)**

Rajesh Singh,
H.No.470, Pocket L,
Sarita Vihar,
New Delhi – 110 076.

vs.

ITO, Ward 62 (1),
New Delhi.

(PAN : ARAPS0115R)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Rishabh Jain, Advocate
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 22.07.2024
Date of Order : 25.07.2024

ORDER

This appeal by the assessee is directed against the order of the ld. CIT (Appeals)/National Faceless Appeal Centre dated 28.02.2024 for the assessment year 2021-22.

2. Grounds of appeal taken by the assessee read as under :-

“1. That on the facts and circumstances of the case, the impugned order dated 28.02.2024 passed by the Ld. CIT (A) is bad, illegal and contrary to the provisions of the I.T. Act, 1961.

2. That on the facts and circumstances of the case while passing the impugned order, Ld. AO(CPC) and CIT (A) both have failed to appreciate that Rs.2,52,973/- was deposited with the relevant authority within the time stipulated under PF/ESI Act.

3. That on the facts and circumstances of the case, ld. CIT(A) erred in assuming that in Tax Audit Report, the Auditor is required to fill the details of sum received from employees as contribution to any fund not credited with employees account on or before due date.”

3. Ld. Counsel for the assessee contended that the issue involved in this appeal is related to late deposit of contribution towards PF & ESI made by the employees. He submitted that the lower authorities have disallowed even such contributions that were deposited during the limitation prescribed under relevant Acts. Hence, the Assessing Officer should have allowed such deposits.

4. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below. He fairly conceded that matter may be restored to the AO for verification of correctness of the claim of the assessee regarding such deposits that were made within time as prescribed under relevant law.

5. I have heard Ld. Authorized Representatives of the parties and perused the material available on record. Looking to the facts of the present case and the specific averment made at bar that certain deposits were made during the limitation period. Hence, looking to the totality of the facts, I hereby set aside the impugned order and restore the issue to the Assessing Authority to verify the correctness of the claim of the assessee and decide it afresh in accordance with law. If the AO finds that the employee's contribution towards PF & ESI was deposited within period prescribed under the relevant Act, the AO would allow the claim of the assessee. Hence, the grounds raised by the assessee are allowed for statistical purposes in terms indicated herein above.

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

Order pronounced in the open court on this 25th day of July, 2024.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 25th day of July, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A).
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**