



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK 'SMC' BENCH, CUTTACK**

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.257/CTK/2024

Assessment Year : 2018-19

Excellent Services, Plot No.583(P), Beherasahi, Nayapali, Bhubaneswar.	Vs.	Income Tax Officer, Ward-5(1),Bhubaneswar
PAN/GIR No.		
(Appellant)	..	(Respondent)

Assessee by : Shri Vikram Dudhuria, CA
Revenue by : Shri S.C.Mohanty, Id Sr DR

Date of Hearing : 5/08/2024

Date of Pronouncement : 5/08/2024

ORDER

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 27.2.2024 in Appeal No.NFAC/2017-18/10039470 for the assessment year 2018-19.

2. Shri Vikram Dudhuria, Id AR appeared for the assessee. Shri S.C.Mohanty, Id Sr DR represented on behalf of the revenue.

3. The appeal is time barred by 35 days. The assessee has filed condonation petition supported by an affidavit, stating the reason that due to health issue of the partners of the firm, the appeal could not be filed

within the stipulated period and therefore, there was a delay of 35 days. It is the contention that delay be condoned and the appeal be disposed of on merits. I find that the reasons stated in the petition have not been found false and, therefore, I condone the delay of 35 days in filing the appeal and proceed to decide the appeal on merits.

4. It was submitted by Id AR that the assessee is providing housekeeping service to Jindal Steel and Power Limited at Angul. It was the submission that the assessee had received Rs.1,50,37,697/- on account of the said services during the relevant assessment year. It was the submission that the assessee was to provide services in the nature of maintenance and cleanness of the roads and office space, etc. The assessee had employed various staff at the premises of the client and had paid salary of staff to an extent of Rs.23,42,816/-. The same was claimed as expenditure under the head "Client Management Service Expenses". It was the submission that the assessee has also paid PF and ESI during the relevant assessment year to an extent of Rs.12,23,498/-. It was the submission that the Assessing Officer computed the PF and ESI in relation to employees and wages directly paid by the assessee, which has been claimed separately to an extent of Rs.14,61,440/- and Rs.4,20,800/- in its profit and loss account and had worked out the PF and ESI liability to an extent of 27% of Rs.14,61,400/- and had disallowed an amount of Rs.8,28,920/- as excess PF and ESI. It was the submission that the so

called excess PF and ESI related to the salary and wages paid under Client Management Service Expenses to an extent of Rs. Rs.23,42,816/-. Ld AR drew my attention to page 5 of the assessment order, wherein, the entire break-up of the PF and ESI at a total salary of Rs.38,04,216/- was categorically specified in reply to query at sl. No.2.1 of the show cause notice of the Assessing Officer. It was the submission that the entire PF and ESI of Rs.12,23,498/- related to salary and wages of Rs.38,04,216/-, which included salary and wages at the client site and at office of the assessee. It was the further submission that the Assessing Officer did not allow the expenditure of Rs.23,42,816/- representing salary paid to the employees at the client site, which was claimed under the head "Client Management Services Expenses" of Rs.1,08,26,762/-. It was the submission that all the details had been produced before the Assessing Officer, which is evident at pages 7 & 8 of the assessment order. Ld AR also drew my attention to pages 12 to 13 of PB, which was a list of employees, their Adhar No. and payment mode were available and also their share of PF and ESI, which had been deposited. It was the submission that these details were produced before the Assessing Officer and the Assessing Officer has also recognized the same in page 2 at para 2.2 of the assessment order. It was the submission that the addition as made by the Assessing Officer and confirmed by the Id CIT(A) is liable to be deleted.

5. In reply, Id Sr DR vehemently supported the order of the AO and Id CIT(A).

6. I have considered the rival submissions. A perusal of the assessment order clearly shows that an amount of Rs.12,23,498/-, representing PF and ESI of the employees at the client sites as also at the assessee's office premises has been paid by the assessee. It is further noticed that the assessee has incurred salary and wages at the client site to an extent of Rs.23,42,816/- and the evidence in regard to the same has also been produced before the lower authorities. This being so, the entire payment of Rs.38,04,216/- being salary and wages would have been considered as all the evidences have been produced before the Assessing Officer and same have been recorded in the assessment order supported by balance sheet and profit and loss account. Therefore, both the additions as made by the AO and confirmed by Id CIT(A) stand deleted.

7. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 5/08/2024.

Sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 5/08/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Excellent Services, Plot No.583(P), Beherasahi, Nayapali, Bhubaneswar
2. The Respondent: Income Tax Officer, Ward-5(1), Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, Cuttack

