

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No.477/Kol/2024**  
Assessment Year: 2021-22

**Nomura Research Institute Financial Technologies India Pvt. Ltd.....Appellant**

22<sup>nd</sup> Floor, Ps Srijan Corporate Park,  
Tower I, Block-EP And GP, Sector-V,  
Salt Lake, Sech Bhawan, S.O. North 24 Parganas,  
West Bengal-700091.  
[PAN: AADCA8967A]

vs.

**DCIT, Circle-1(1), Kolkata.....Respondent**

**Appearances by:**

Shri P. Jhunjhunwala, Advocate, appeared on behalf of the appellant.  
Shri Pradip Biswas, Addl. CIT- Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : October 28, 2024

Date of pronouncing the order : October 30, 2024

**ORDER**

**Per Sonjoy Sarma, Judicial Member:**

The present appeal is filed by the assessee against the order dated 10.01.2024 of the Commissioner of Income Tax (Appeals), Aurangabad [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The brief facts of the case are that the assessee filed its return of income on 15.03.2022 by declaring total income of Rs.15,22,38,899/-. An intimation was received u/s 143(1) of the Act dated 27.10.2022 issued by CPC, Bengaluru for assessment year 2021-22. This order included disallowance of Rs.14,92,802/- to the income of the assessee, thereby determining the total income at Rs.15,37,31,700/-. The disallowance was made on account of delay in depositing the Provident Fund (PF) contribution, which was considered as a default.

3. Dissatisfied with the above order, the assessee went in appeal before the Id. CIT(A) submitting that the delay in depositing of PF contribution was due to unavoidable and genuine circumstances specifically of an order of internet shut down by West Bengal District Administration dated 12.05.2020 mandating suspension of internet services from 2.30 PM on 12<sup>th</sup> May 2020 until 6 PM on 17<sup>th</sup> May 2020 to manage law and order situation and maintain public safety. This suspension of services coinciding with the outbreak of Covid-19 pandemic rendered the assessee became unable to make the deposit of PF contribution on time. Despite generating the necessary PF challans dated 15.05.2020 i.e. within the due date prescribed under the Act, the assessee could not complete the deposit as the online payment gateway was disrupted because of internet shut down and as soon as internet service resumed on 18.05.2020, the assessee promptly completed the payment.

4. Before the Id. CIT(A), the assessee furnished the copy of the order of internet shut down by Govt. and copy of the generated PF challan as stated also in the impugned order passed by the Id. CIT(A) and the assessee has also contended that the delay was entirely due to circumstances beyond the control of the assessee. However, the Id. CIT(A) dismissed the assessee's appeal without appreciating these extraordinary factors.

5. Aggrieved by the order of the Id. CIT(A), the assessee is in appeal before this Tribunal contesting the disallowance of Rs.14,92,802/- on the ground of delay in depositing of PF contribution on the part of the assessee arguing that the delay was due to unavoidable and genuine circumstances, due to internet shut-down order issued by the Govt., which was beyond the control of the assessee.

5.1 The Id. AR has submitted that the assessee had promptly generated the PF challan within the stipulated period and the delay was

solely due to suspension of the internet services. The contention of the ld. AR before the Bench was that the extraordinary situation prevailing during the Covid-19 lockdown and restrictions, any additions or disallowances are unjust. The ld. AR, in order to substantiate its claim, he furnished the copy of the internet suspension order passed by the District Magistrate, Govt. of W.B which is placed at page no.206 to 208 and the copy of the PF challan generated on 15.05.2020 at page no.205 of the paper-book. The ld. AR further argued that internet suspension order was issued on 12<sup>th</sup> May 2020 preventing any online transaction being conducted. This order affected the assessee's ability to deposit PF contribution on time. As soon as the internet service was restored on 18<sup>th</sup> May 2020, the assessee immediately made the pending deposit of PF contribution. He, therefore, stated that the delay was not attributable to any negligence or fault on the part of the assessee but due to unavoidable circumstances on account of Govt. mandate for discontinuation of internet service. He also stated that due to prevailing Covid-19 pandemic and subsequent restrictions, the assessee's inability to meet the deadline fixed by the Govt. constituted a genuine hardship to the assessee. The ld. AR in order to substantiate its claim referred a decision of the Coordinate Mumbai Bench of the Tribunal in the case of *Diamour Jewels (P) Ltd. vs. CPC reported in [2014] 165 taxmann.com 112 (Mumbai-Trib.)*, wherein, under similar circumstances, the Tribunal was condoned the delay in deposit of PF and ESI of the employees' share for the month of April 2020 and May 2020, which fell in the period of lockdown when pandemic of Covid-19 was at its peak considering the reasonable cause and unavoidable circumstances preventing the assessee to deposit employees' contribution on or before the due date.

6. On the other hand, the ld. DR opposed the contentions of the ld. AR stating that as per the provisions of section 143(1) of the Act, timely deposit of PF contribution is a statutory requirement and any delay,

irrespective of any cause could not be subject to disallowance under the relevant provisions.

7. We, after hearing the rival submissions of the parties and examining the records and evidences submitted by the assessee, find that the assessee generated the PF challans on 15<sup>th</sup> May 2020 within the stipulated timeline which demonstrates the efforts of the assessee to fulfil statutory requirement. The delay in deposit of PF contribution was due to internet shut-down imposed by the West Bengal District administration in an order dated 12<sup>th</sup> May 2020 mandating internet suspension from 2.30 PM on 12<sup>th</sup> May 2020 until 6 PM on 17<sup>th</sup> May 2020. This shut-down order correlates with the assessee's stated reasons for delay and substantiated that the delay was indeed due to factors beyond the control of the assessee. As emerged from the above facts, the assessee made the deposit on the first possible date after resumption of internet services on 18<sup>th</sup> May 2020 by prompt Compliance as soon as circumstances allowed. We also note that during the Covid-19 pandemic several regulatory and statutory guidelines were extended to curb the regular operation along with banking operations. The assessee's delay fell within this period of lockdown services disruption. We also consider judicial notice of the extraordinary challenge and restriction faced by the public at large during the pandemic which created unprecedented operational and logistic barriers. Similarly, we consider the Coordinate Mumbai Bench of the Tribunal in the case of *Diamour Jewels (P) Ltd. vs. CPC (supra)*, where a delay was condoned under the similar circumstances of unavoidable cause. This precedent reinforces that statutory compliances or timeline which accommodated genuine and reasonable hardship, particularly in exceptional causes such as the present one. In the light of the above observation, we find that the delay in deposit of PF contribution was caused due to unavoidable circumstances by Govt. mandate for internet shut-down in connection with the prevailing Covid-19 pandemic condition. This delay does not

reflect any fault or negligence on the part of the assessee. Under this bona fide circumstance, we hold that it would be unjust to penalise the assessee to deposit PF contribution during the lockdown period. Accordingly, we set aside the addition of Rs.14,92,802/- as made u/s 143(1) of the Act and allow the appeal of the assessee.

8. In terms of the above discussion, the appeal filed by the assessee is allowed.

***Kolkata, the 30<sup>th</sup> October, 2024.***

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

Sd/-  
**[Sonjoy Sarma]**  
**Judicial Member**

Dated: 30.10.2024.

RS

*Copy of the order forwarded to:*

1. Nomura Research Institute Financial Technologies India Pvt. Ltd
2. DCIT, Circle-1(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches