

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Inturi Rama Rao, Accountant Member

ITA No. 79/Coch/2022
(Assessment Year: 2019-20)

Salkara Restaurant West Nadakkavu Vandipetta Kozhikode 673001 [PAN: ABYFS8116J]	vs.	The Income Tax Officer-1(3) Aayakar Bhavan Mananchira Kozhikode 673001
(Appellant)		(Respondent)

Appellant by:	----- None -----
Respondent by:	Smt. Leena Lal, Sr. D.R.

Date of Hearing:	28.10.2024
Date of Pronouncement:	30.10.2024

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 28.08.2021 for Assessment Year (AY) 2019-20.

2. At the outset, I find the appeal is time barred by limitation by 532 days before the Tribunal. The counsel representing the assessee filed a petition praying for condonation of delay on the ground that they could not submit hard copies of Form 36 due to the absence of accounting staff due to Covid Pandemic. The assessee prayed to condone the delay of 532 days.

3. Having gone through the averments made in the condonation petition filed by the assessee and in the absence of any contrary material to disbelieve the contention put forth by the assessee, I am of the considered opinion that it is a fit case to condone the delay of 532 days in filing the appeal and proceed for adjudication of the appeal on merits.

4. Brief facts of the case are that the assessee is a partnership firm engaged in the business of running a restaurant. The assessee had filed return of income for AY 2019-20 on 20.03.2020 declaring income of Rs. 4,93,602/-. The said return was processed u/s. 143(1) of the Income Tax Act, 1961 (the Act) vide intimation dated 02.07.2020 after making adjustments for belated remittance of contribution to employees' PF & ESI of Rs. 1,40,496/-.

5. Being aggrieved an appeal was filed before the CIT(A) who vide the impugned order confirmed the action of the AO.

6. Being aggrieved the assessee is in appeal before the Tribunal in the present appeal. When the appeal was called nobody attended despite due service of notice of hearing. Therefore after hearing the learned Sr. DR I proceeded to dispose off the appeal as under.

7. The issue in the appeal stands covered by the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. v. Pr. CIT (in Civil Appeal No.2833 of 2016) as well as the judgements of Hon'ble Jurisdictional High Court in the case Inditrade Capital Ltd. v. CIT [2024] 167 taxmann.com 82 (Ker) and CIT v. Mechem Ltd. [2015] 378 ITR 443 (Ker). Therefore we do not find any illegality in making adjustment of belated remittance of contribution to employees' towards PF & ESI.

8. This assessee's appeal is dismissed.

Order pronounced in the open court on 30th October, 2024

Sd/-
(Inturi Rama Rao)
Accountant Member

Cochin, Dated: 30th October, 2024

n.p.

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin