

**THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'F' NEW DELHI
BEFORE SHRI S. RIFAUR RAHMAN ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

ITA No. 2454/Del/2023 Assessment Year: 2018-19
ITA No. 2455/Del/2023 Assessment Year: 2019-20

Q3 Infotech Pvt. Ltd., C/o CA M R Sahu, House No.651, Ist Floor, Sector-10A. Nr. G.D. Goenka Public School, Gurgaon-122001 (Haryana).	Vs.	DCIT, Circle-3(1), Gurgaon & ADIT, CPC, Bangalore.
PAN :AAACQ2713M		
(Appellant)		(Respondent)

Assessee by	Shri Ratnesh Gupta, CA
Department by	Shri Anirudh Saran Singh, Sr. DR

Date of hearing	04.11.2024
Date of pronouncement	20.11.2024

ORDER

PERYOGESH KUMAR US, JUDICIAL MEMBER:

The Assessee has preferred the above appeals against the orders of the Ld. CIT(Appeals) dated 06.06.2023. Since, the issues involved in the present appeals are identical, both the appeals are heard together.

2. There is a delay of 25 days in filing the appeals and an application for condoning the delay has been filed contending that the appeals fees deposited on 05.08.2023 was defective one and the same has been paid under different heads. The said defect has been cured by paying the fee again on 22.08.2023, therefore, there was delay in filing the appeals.

3. Considering the reasons assigned in the application for condonation of delay, the delay of 25 days in filing the above appeals are condoned.

4. Ld. Counsel for the Assessee vehemently submitted that the Assessee has not been provided with the opportunity of being heard before the Ld. AO/CPC, Bangalore while passing an order under Section 154/153(1) of the Act and further contended that due to inadvertent mistake of the tax auditor wrongly mentioned in both the employer and employee's contribution which resulted in making certain additions. Apart from the same, the actual due date of the salary should have been verified by the CPC/A.O,

therefore, sought for remanding the matter to the file of AO/CPC, Bangalore for fresh verification.

5. Per contra, Learned DR relying upon the orders of the lower authorities sought for dismissal of the appeals.

6. We have heard the parties and perused the material. The Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. vs. CIT-1 in Civil Appeal No. 2833 of 2016, vide order dated 12/10/2022 held that delayed deposit of the contribution EPF & ESIC beyond the stipulated period prescribed in the respective Acts are not allowable. The grievance of the Assessee is that Assessee has not been provided with the opportunity of being heard before the Ld. AO/CPC, Bangalore while passing an order under Section 154/153(1) of the Act and due to inadvertent mistake of the tax auditor who has wrongly mentioned in both the employer and employee's contribution which resulted in making certain additions and the A.O. has not verified the actual due date of the salary. Considering the said claim of the Assessee and in the facts and circumstances, we deem it fit to restore the issue involved in the Appeal to the file of the A.O. to decide the issue

afresh by verifying the employee and employer contribution and also the due date of the salary as prescribed in the respective Acts in accordance with law after providing opportunity of being heard to the Assessee. Accordingly, the Appeals of the Assessee in ITA No. 2454/Del/2023 and 2455/Del/2023 are partly allowed for statistical purpose.

Order pronounced in the open court on 20/11/2024.

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Dated: 20th November, 2024.
Mohan Lal/R.N

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

