

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No. 243/Ind/2024
Assessment Year : 2020-21

Kataria Transport Corporation, 55-56, Transport Nagar, Indore	<u>बनाम/</u> Vs.	CPC, Indore
(Assessee / Appellant)		(Revenue / Respondent)
PAN: AADFK7177M		
Assessee by	Shri Venus Rawka, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	11.09.2024	
Date of Pronouncement	11.09.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 31.01.2024 passed by learned Commissioner of Income-tax (Appeal) - Addl./JCIT(A), Thane ["CIT(A)"] which in turn arises out of intimation dated 23.12.2021 passed by CPC, Bangalore ["AO"] u/s 143(1) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2020-21, the assessee has filed this appeal on following grounds:

- (1) *The learned CIT(A) erred in disallowing the claim of Rs. 6,05,930/- for the bonus and commission paid to the employees. The learned CIT(A) further erred in disallowing the claim of payments of ESIC and PF in view of limitation extension order by Supreme Court. The*

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appellant craves to add, to amend, to alter any of the grounds of appeal on or before the appeal.

(2) The learned CIT(A) erred in disallowing the claim of payment of ESI and PF.

2. On hearing learned Representatives of both sides, we find that the assessee in present appeal requires redressal of two issues of additions/disallowances made by AO in intimation u/s 143(1).

3. The first issue is the disallowance of Rs. 6,05,930/- made by AO on the basis of following reporting made by auditors of assessee in Clause No. 20(a) of Form No. 3CD (Tax Audit Report):

“20(a) Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend [Section 36(1)(vii)]

<i>Description</i>	<i>Amount</i>
<i>Bonus</i>	<i>6,05,930/-</i>

3.1 The assessee has filed a certificate dated 08.08.2024 of M/s Pramod Gupta & Associates, Chartered Accountants, Tax Auditors of assessee, certifying that the assessee had paid bonus of Rs. 6,05,930/- to its employees during the period 01.04.2019 to 31.03.2020; that the payment had been made through cheque/banking channel on 31.03.2020 and that the bonus payment has been debited in books of assessee on 31.03.2020. During hearing, Ld. AR for assessee drew us to this very certificate. Further, Ld. AR emphasized his submission as made in a Written-Note filed that the impugned bonus was paid in lieu of business requirement and the payment

so made to employees is in the limits of Bonus Act and hence allowable as deduction.

4. The second issue relates to the disallowance of Rs. 76,523/- belatedly paid to ESIC/PF after due dates under relevant funds. Ld. AR's only submission for this issue is such that the time-limit for payment was extended by Order of Supreme Court and a Circular issued by PF authorities due to prevailing adverse situation of Covid-19 pandemic at that time.

5. Ld. DR for revenue proposed that both of these issues may be remanded to the file of Jurisdictional AO (JAO) for factual verification and adjudication afresh.

6. We have considered rival submissions of both sides and perused the documents held on record including the orders of lower-authorities. We find that for first issue of disallowance of bonus, the assessee has filed a certificate of Tax Auditor which is a new evidence. Further, in relation to the second issue of disallowance of belated payments of ESI/PF, the assessee is relying upon some extension order/circular of Supreme Court/PF authorities permitting belated payment. Therefore, in the situation, we find merit in the proposal made by Ld. DR for revenue that these issues may be remanded to JAO for verification and adjudication afresh. Accordingly, we remit these issues to the file of JAO for a fresh adjudication. Needless to mention that the JAO shall give necessary opportunity to assessee and

consider assessee's submission properly without being influenced by earlier order. The assessee shall be at liberty to make a full representation including what has been submitted before us for AO's consideration.

7. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in the open court on 11/09/2024

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated :11.09.2024.

CPU/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*