

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य  
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 214/Chd/2024  
निर्धारण वर्ष / Assessment Year : 2018-19

Ethos Limited SCO No. 88-89, Sector 8C Chandigarh	बनाम	The DCIT Circle 1(1), Chandigarh
स्थायी लेखा सं. / PAN NO: AADCK2345N		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Parikshit Aggarwal, C.A  
राजस्व की ओर से / Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR  
सुनवाई की तारीख / Date of Hearing : 22/10/2024  
उद्घोषणा की तारीख / Date of Pronouncement : 21/11/2024

### आदेश / Order

**PER VIKRAM SINGH YADAV, A.M. :**

This is an appeal filed by the assessee against the order of the Ld. CIT, (Appeal), Addl/JCIT(A) Madurai dt. 12/01/2024 pertaining to Assessment Year 2018-19 wherein the sole ground of appeal of appeal relates to sustenance of disallowance of Rs. 6,53,089/- on account of delay in deposit of employee's share of PF contribution under section 36(1)(va) of the Act.

2. In this regard, the Ld. AR submitted that the due date of deposit of employee's share of PF contribution of Rs. 6,53,089/- falls due on National Holiday i.e, on 15/08/2017 and given that, the assessee has deposited the said contribution on the next working day i.e; 16/08/2017. It was submitted that this fact is not under dispute and same is apparent from the impugned order wherein the Ld. CIT(A) has referred to the contents of the tax audit report so submitted by the assessee.

2.1 It was submitted that since the due date falls on a date which was National Holiday, the deposit could have been made only on the day following the National Holiday and the assessee duly complied with its obligation and had made necessary compliance on 16/08/2017. It was submitted that exactly identical matter came up for consideration before the Hon'ble Delhi High Court in case of M/s Aero Club Vs. Asst. CIT

(in ITA No. 267/2023 dt. 05/09/2023) wherein the issue for consideration before the Hon'ble High Court and for which the appeal was admitted on the question of law was "whether Income Tax Appellate Tribunal misdirected on facts and in law in failing to notice that Rs. 44,28,453/- were the amount payable towards the PF and Rs. 72,131/-, the amount payable towards ESI fall for due on National Holiday 15/08/2018 and therefore the deposits made on the following day i.e; 16/08/2018 was amenable to deduction."

2.2 It was submitted that the Hon'ble Delhi High Court decided the matter in favour of the assessee by relying on its earlier decision in case of Pr. CIT-7 Vs. Pepsico India Holding Pvt. Ltd. and the relevant findings are contained at para 4 of its order and the contents thereof read as under:

*"4. We had the occasion to deal with a similar question of law in ITA No. 12/2023, titled Pr. Commissioner of Income Tax-7 vs Pepsico India Holding Pvt. Ltd. The observations made by us therein, being apposite, are extracted hereafter:*

*"5. Mr Deepak Chopra, learned counsel, who appears on behalf of the respondent/assessee, says that in this particular matter, since the deposit of the employee's contribution towards the provident fund was made on 16.08.2018, following a National Holiday i.e., 15.08.2018, the deduction claimed would have to be allowed, as steps had been taken by the respondent/assessee towards the deposit of the said amount on 14.08.2018.*

*6. Mr Puneet Rai, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that since the respondent/assessee had deposited the employee's contribution towards the provident fund amounting to Rs. 1,56,12,404/- on 16.08.2018, the Assessing Officer (AO) had rightly disallowed the deduction, as the due date was 15.08.2018.*

*7. According to us, this submission advanced by Mr Rai cannot be accepted. Since the due date fell on a date which was a National Holiday, the deposit could have been made by the respondent/assessee only on the date which followed the National Holiday.*

*8. Mr Chopra, as noticed on 12.01.2023, was right that Section 10 of the General Clauses Act would help the respondent/assessee to tide over the objections raised on behalf of the appellant/revenue.*

*9. Therefore, the second question of law, as framed via the order dated 12.01.2023, which is extracted hereinabove, is answered against the appellant/revenue and in favour of the respondent/assessee.*

*10. Accordingly, the appeal is closed, in the aforesaid terms.*

*5. In view of what is stated hereinabove, the question of law, as framed, is answered in favour of the appellate/assessee and against the respondent/revenue."*

2.3 It was accordingly submitted that the assessee be allowed the necessary relief by deleting the disallowance so made by the CPC and sustained by the Ld. CIT(A).

3. Per contra the Ld. DR has relied on the order of the lower authorities.

4. We have heard the rival contentions and perused the material available on record. The assessee company has deposited the PF contribution of Rs. 6,53,089/- which was falling due on 15/08/2017 on the next working day i.e; 16/08/2017. The due date being the national holiday, the deposit on the next working date shall be in due compliance with the relevant statute and nothing adverse can be held against the assessee by way of invoking the provisions of section 36(1)(va) of the Act. The decision of the Hon'ble Delhi High Court in case of Pepsico Holding and which has been followed in case of Aero Club supports the case of the assessee. In the result, the disallowance so made by the CPC/AO and upheld by the Id CIT(A) is hereby deleted and the matter is decided in favour of the assessee.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 21/11/2024

Sd/-

परेश म. जोशी  
(PARESH M. JOSHI)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

विक्रम सिंह यादव  
(VIKRAM SINGH YADAV)  
लेखा सदस्य/ ACCOUNTANT MEMBER

**AG**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar