

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H': NEW DELHI**

**BEFORE,
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.3527/Del/2024
(ASSESSMENT YEAR-2019-20)

The Kangra Co-operative Bank Ltd. 1916, Chuna Mandi, Pahar Ganj, New Delhi-110055 PAN:AAATT0361M (Appellant)	Vs.	Dy. CIT, Circle-62(1), Delhi (Respondent)
--	-----	---

Assessee by	Shri S.L. Gupta, CA
Respondent by	Shri Amit Katoch, Sr. DR

Date of Hearing	19/11/2024
Date of Pronouncement	29/11/2024

ORDER

PER BENCH:

1. The appeal filed by Assessee is against order dated 26/06/2024 of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi [hereinafter referred to as 'Ld. CIT(A)'], arising out of Assessment Order dated 30/10/2020 u/s 154 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by CPC, Bengaluru (hereinafter referred as the 'Ld. AO') for Assessment Year 2019-20.

2. Brief facts of case are that on 05/10/2019, appellant/assessee filed its income tax return on taxable income of Rs.17,64,98,530/- which was later on revised as Rs.17,48,57,110/- on 05/06/2020. Online rectification order dated 30/10/2020, late deposit amount of EPF amounting to Rs.7,03,244/- was disallowed and added in the income of appellant/assessee.

3. Appellant/assessee preferred appeal before Learned CIT(A) which was dismissed vide order dated 26/06/2024.

4. Being aggrieved appellant/assessee preferred present appeal.

5. Learned Authorized Representative for appellant/assessee submitted that Learned CIT(A) erred in confirming the additions of Rs.7,03,244/- made by Assessing Officer on account of disallowance of expenses for EPF, late deposit. A fire occurred in the office of the appellant on 30/06/2018 and all the records were burnt. It took time to retrieve the records. Any how the EPF Contribution was deposited during the financial year itself i.e., before submission of Income Tax Return on 31/10/2019. Reference to Diary report from Police Station, Janak Puri dated 2nd July, 2018, Copy of Fire report issued by the Divisional Fire Officer dated 6th July, 2018. Copy of newspaper "Punjab Kesri" dated 3rd July, 2018, publishing news of fire happening. Appellant/assessee could not deposit the EPF due to the circumstances beyond its control, as there was fire in the office of the appellant and EPF was deposited during the assessment year itself after retrieval of records. Staff EPF

Contribution amounting to Rs.7,03,244/- for month of June, 2018, was deposited by the appellant on 03/08/2018.

6. Learned Authorized Representative for appellant/assessee submitted that Hon'ble Income Tax Appellate Tribunal ('ITAT'), Delhi Bench in case of FIL India Business & Research Services (P.) Ltd. v. Deputy Commissioner of Income-tax ([2023] 154 taxmann.com 251) has held that Appellant/Assessee could not be penalized with addition on the account of delayed deposits when Assessee had initially deposited employee contribution before the prescribed due date but due to the glitches on the portal such amount was reversed by Bank. The relevant extracts of the judgment are provided below:

'8. We are therefore of the view that when the assessee had initially deposited the employees dues before the prescribed due dates but due to the glitches at the end of the respective authorities, the amounts were reversed by the bank, then the assessee cannot be penalized with the addition on account of delayed deposits.....'

7. Learned Authorized Representative for the Department relied on the order of Learned CIT(A).

8. From examination of record in light of aforesaid contention, it is crystal clear that Learned CIT(A) confirmed addition of Rs.7,03,244/- by Learned AO on account of disallowance of expenses for EPF, late deposit. Staff EPF contribution amounting to Rs.7,03,244/- for the month of June, 2018, was deposited by the appellant/assessee on 03/08/2018 i.e., after the due date of 15/07/2018 prescribed under EPF Act. As per Diary report from

Police Station, Janak Puri dated 02/07/2018, it is evident that a fire took place on 30/06/2018. Copy of fire report issued by Additional Fire Officer dated 06/07/2018 and copy of news paper "Punjab Kesri" dated 03/07/2018 in the office of appellant/assesse all the records were burnt. After retrieving record EPF was deposited during the Financial Year itself.

9. In view of the above materials facts specially the incident of fire beyond the control of appellant/assesse and well settled principle of law that the assessee cannot be penalized for delay beyond his controls. The addition of Rs.7,03,244/- is not just, fair and reasonable. Therefore, the impugned orders are set aside.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this day 29th November, 2024.

Sd/- (SHAMIM YAHYA) ACCOUNTANT MEMBER	Sd/- (VIMAL KUMAR) JUDICIAL MEMBER
---	--

Dated: 29/11/2024

Pk/sps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI