

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DAS GUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No.367/Asr/2024
Assessment Year: 2018-19**

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| M/s. Unimax Laboratories, B.O. Plot No. 7, Sector 24, Faridabad, H. No. Jandiala Guru C/o K.R. Jain Advocate, 48 Chaturbuj Road, Amritsar. [PAN:AAAFU2189C] (Appellant) | Vs. | DCIT/ACIT, Circle-4, Amritsar. (Respondent) |
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|----------------------|----------------------------|
| Appellant by | Sh. Arun Kumar Vig, Adv |
| Respondent by | Mrs. Neelam Sharma, Sr. DR |

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| Date of Hearing | 27.12.2024 |
| Date of Pronouncement | 10.01.2025 |

ORDER

Per: Udayan Das Gupta, JM

This appeal is filed by the assessee against the order of the Ld. JCIT (A) -1, Mumbai, dated 24/04/2024, passed u/s 250 of the Act 61, which has emanated from the order of the AO, CPC, Bangaluru, dated 19/10/2019 passed u/s 143(1) of the Act 61.

2. The grounds of appeal preferred by the assessee as per memorandum of appeal are as under;

“1. That the intimation order u/s 143 (1) of the CPC, Bengaluru making additions and likewise Ld. CIT(A) confirming the same is wrong, illegal and against facts.

2. That Id. CIT (A) has erred in law and on facts while making an addition of Rs. 2,03,744/- pertaining to the alleged late payments of the employees contribution to provident fund.

3. That Ld. CIT (A) erred in law for not considering the fact that the payment of Rs. 1,03,453 /- paid on 13/09/2017 which is in time.

4. That Ld. CIT (A) erred in holding that PF deposited amounting to Rs. 1,00,291/- due on 15/08/2017 which was paid on 16/08/2017 i.e. next working day because 15/08/2017 being a national holiday) and amount paid on 16/08/2017 is in time.

5. That the appellant requests for leave to add or amend the grounds of appeal before the appeal is heard and disposed off.”

3. The facts of the case are that the assessee is a partnership firm and has filed its return declaring an income of Rs. 4,35,40,130/-. The said income has been assessed u/s 143(1) by the CPC Bengaluru by making an addition of Rs.2,03,744/- the break of which is as follows:

| <i>Sr. No.</i> | <i>Payment of EPF</i> | <i>Paid On</i> |
|--------------------|--|---|
| 1. | <i>Rs.1,03,453/- (Employees Portion)</i> | <i>13.09.2017 (Employees Portion)</i> |
| 2. | <i>Rs.1,00291/-(Employees Portion)</i> | <i>16.08.2017 (Employees Portion)</i> |

Both these amount relates to deposit of employees contribution to provident fund and has been disallowed by the CPC Bengaluru on the basis of incorrect reporting in the tax audit report uploaded by the CA in the Income tax Portal.

4. The matter was carried in appeal before the first appellate authority, by the assessee, without success.

5. The Id. AR submitted that regarding the deposit made on 13.09.2017, the same relates to the month of August, 2017 and the same is deposited within the stipulated time frame, by 15th of following month but due to an inadvertent mistake while uploading the tax audit report, the figure of Rs.1,04,976/- was stated at Rs.1,523/- and the payment of Rs.1,03,453/- deposited vide a different challan was never entered in the said schedule of the Audit Report in Form 3CD.

5.1 Regarding the payment of Rs.1,00,291/- the said payment is made on 16.08.2017 (15th August being holiday) and as such, the said amount was

disallowed by the CPC Bangaluru. He further submitted copies of both the challans alongwith copies of bank statement to prove his point that the deposit of EPF has been made through bank channel and fully documented. He further relied on the Hon'ble Delhi High Court Judgment in the case of Pepsico India Holding (P.) Ltd reported in 156 taxmann.com 25(Delhi), to argue that the deposit on the 16th of August is considered within time.

6. The ld. DR relied on the order of the ld. JCIT(A), but after the examining of the bank statement and challan he accepted that the payments has been made to the credit of the P.F. authorities on 13.09.2017 and 16.08.2017, respectively.

7. We have considered the submissions of the assessee and the ld. DR and considered the materials on record and we find that employees portion of the contribution which is to be mandatorily deposited by the 15th of the following month has been deposited on 13.09.2017 amounting to Rs.1,03,453/- which relates to the month of August 2017 which is within time and the same is allowable as per provisions of law.

7.1 Regarding second payment of Rs.1,00,291/- which pertains to the month of July should have been deposited by 15th of August 2017 but the said cheque has been cleared on the 16th of August 2017 (15th being National Holiday). As such, following the observation of the Hon'ble Delhi High Court in the case of *Pepsico*

India P. Ltd. (supra), we allow the said deduction claimed u/s 36(1)(va) of the Act 1961 being deposited on the next working day.

8. In the result, the appeal of the assessee bearing **ITA No. 367/Asr/2024** is allowed.

Order pronounced on 10.01.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-
(KRINWANT SAHAY)
Accountant Member
AKV

Sd/-
(UDAYAN DAS GUPTA)
Judicial Member

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

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By order