

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

SMC MATTER

ITA no.293/Nag./2024
(Assessment Year : 2017-18)

Bharatiya Barood Udyog
1, Sanyal House, Sadar
Near Corporation Park
Nagpur 440 001 PAN – AAGFB8567P

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-2, Nagpur

..... Respondent

Assessee by : Shri Naresh Jakhotia
Revenue by : Shri Abhay Y. Marathe

Date of Hearing – 01/04/2025

Date of Order – 03/04/2025

ORDER

Captioned appeal by the assessee is emanating from the impugned order dated 21/03/2024, passed by the learned Commissioner of Income Tax (Appeals)-1, Coimbatore, [*learned CIT(A)*], for the assessment year 2017-18.

2. In its appeal, the assessee has raised following grounds:-

"1. Because the learned Commissioner (Appeals) has erred in disallowing Provident Fund deposited before the due date of filing of the income tax return and disallowing bonus payable though it is paid before filing of the income tax return.

2. Because the learned Commissioner (Appeals) has erred in ascertaining the details of expenditure though it was provided by the assessee.

3. Because the assessee had deposited the provident fund of Rs.1,22,383/- that was due on 15.01.2017 on 13.02.2017, and the amount of Rs.17,396/- disallowed is of bonus. All this information is clearly stated in TAR enclosed.

4. Because the case law of the Honorable Apex Court in case of M/s Alom Extrusion Limited & Others reported at 319 ITR 306 (SC) in the matter of provident fund contributions of the employees is totally misconstrued. Instead of allowing the amounts are disallowed.

5. Because in the detailed Tax Audit Report enclosed clearly states the above mentioned facts.

6. The assessee craves leave to add or alter any of the ground of appeal on or before the date of hearing. The assessee requests for an opportunity for personal hearing in this matter.”

3. When the case was called for hearing, the learned Counsel for the assessee, by way of its application dated 28/02/2025, submitted that he has opted for the Direct Tax Vivad se Vishwas Scheme, 2024 (DTVsvV Scheme, 2024) and hence he may be permitted to withdraw the appeal. He, however, requested the Bench that in the event of Department's decision is not acceptable to the assessee, the assessee be granted liberty to file fresh appeal before the Tribunal. The learned Departmental Representative has no objection in the submissions of the assessee.

4. I have heard the arguments of the parties, perused the material available on record and gone through the orders of the authorities below. In view of the submissions made by the learned Counsel for the assessee as aforesaid, permission is hereby granted to withdraw the present appeal filed by the assessee. I am further of the opinion that in case, the assessee does not succeed on the declaration filed under DTVsvV Scheme, in that event, the assessee will be at liberty get this appeal restored in its original position by filing Miscellaneous Application and recall this order for hearing on merits.

5. In the result, appeal filed by the assessee is dismissed as withdrawn.

Order pronounced in the open Court on 03/04/2025

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

*Pradeep J. Chowdhury
Sr. Private Secretary*

True Copy
By Order

Sr. Private Secretary
ITAT, Nagpur