

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 159/GTY/2024
Assessment Year 2022-23

Radhabari Tea Co. (Pvt) Ltd.,

Radhabari Tea Estate,

P.O. Badulipar,

Dist- Golaghat (Assam) - 785611

[PAN: AABCR6649G]

.....**Appellant**

vs.

Asstt/Deputy Commissioner of
Income Tax, Circle-1, Dibrugarh,

Central Processing Centre,

Income Tax Department,

Bengaluru - 565100

..... **Respondent**

Appearances by:

Assessee represented by : None

Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 02.04.2025

Date of pronouncing the order : 04.04.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereinafter “the Act”), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter the Ld. CIT(A)] vide order dated 21.05.2025⁴ for AY 2022-23.

1.1 In this case, the main issue is allowability of Provident Fund Liabilities of Rs. 24,20,710/-, apparently deposited before the due date of filing of return of income and also the issue of timely deposit of an amount

of Rs. 57,24,972/- on account of Labour & Staff Bonus. In this case, while processing u/s 143(1), the Ld. AO, CPC disallowed these items as inadmissible considering the provisions of section 43B of the Act. The facts in brief may be mentioned. It is seen that the appellant has made a provision for Current Liabilities towards Staff and Labour Bonus for a sum of Rs. 14,41,400.00 in the books of accounts. The appellant claims that it has paid a sum of Rs. 57,24,972.00 as Staff and Labour Bonus for the financial year 2021-22 on 15.09.2022, i.e., before the due date of filing return of income and claimed deduction under section 43B of the Income Tax Act, 1961. The appellant had also made a provision for P.F Liabilities for 6 months from October, 2021 to March, 2022 amounting to Rs. 24,20,710.86/- in the books of accounts.

1.2 The appellant claims that it has deposited the said P.F Liabilities of Rs. 24,20,710.86 on various dates before the due date of filing return of income for the assessment year 2022-23, and claimed deduction under section 43B of the Income Tax Act, 1961. The AO has disallowed a sum of Rs. 57,24,972.00 paid on account of Staff and Labour Bonus for the Financial Year 2021-22 and also the sum of Rs. 24,20,710.86 deposited against P.F. Liabilities for the said six-month period.

2. The Ld. CIT(A) is seen to have directed the AO to verify whether the amount of Rs. 57,24,972/- has been deposited before the due date of filing of return and in case this has been done then the Ld. AO would give relief as would be due u/s 43B of the Act. Regarding the amount of Rs. 24,20,710/- (PF Liabilities). The Ld. CIT(A) is seen to have relied on the case of Checkmate Services Pvt. Ltd. 448 ITR 518 (SC) to hold the issue against the assessee.

3. On the last date of hearing, none appeared on behalf of the assessee but it was decided to proceed ahead with the adjudication with the help of Ld. DR. The Ld. DR supported the order of Ld. CIT(A) and stated that while

the issue pertaining to Staff & Labour Bonus has been directed to be verified by the Ld. AO, the issue of PF Liabilities has been rightly held against the assessee on the basis of the case of Checkmate Services (supra).

3.1 We have carefully considered the submissions by the Ld. DR and also gone through the orders of authorities below. It is seen that the Ld. CIT(A) has virtually remanded the matter of Staff & Labour expenses to the Ld. AO. While in principle this may be alright but legally, the Ld. CIT(A) does not have the powers of remand, at least for the assessment year under consideration. However, since we agree in principle that this matter should be verified by the Ld. AO for assessing that their deposit was before the due date for filing of return, then the Ld. AO has to do so. However, clearly the matter should be held in favour of the assessee in case the date of such deposit is within the time allowed u/s 43B of the Act. We direct accordingly.

3.2 Regarding the PF Liabilities, it is felt that this issue should also be examined by the Ld. AO, in light of the case of Checkmate Services (supra) and an appropriate decision may be taken thereon after verifying the dates of actual deposit in Government's account.

4. In result, we set aside the order of Ld. CIT(A) and remand both the issues to the file of Ld. AO for verification and appropriate orders.

5. In result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced on 04.04.2025

Sd/-
[Manomohan Das]
Judicial Member
Dated: 04.04.2025

Sd/-
[Sanjay Awasthi]
Accountant Member

AK, PS

Copy of the order forwarded to:

1. Radhabari Tea Co. (Pvt) Ltd
2. Asstt/Deputy Commissioner of Income Tax, Circle-1, Dibrugarh
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches

1.