

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद।
**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
AND
SHRI MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No.1147/Ahd/2024
Asstt.Year : 2020-21**

The Asstt.CIT Cir.3(1)(1), Ambawadi Ahmedabad.	Vs.	Mahesh Mohanbhai Patel (HUF) Unit-2, Survey NO.293/3 Dholka, B/h. Jalaram Mandir Kalikund-Kheda Road Dholka, H.O. Dholka Ahmedabad. PAN : AAKHM 5770 R
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(Applicant)		(Responent)
Assessee by :		None
Revenue by :		Smt.Trupti Patel, Sr.DR

सुनवाई की तारीख/Date of Hearing : 07/05/2025

घोषणा की तारीख /Date of Pronouncement: 08/05/2025

आदेश/O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

This appeal by the Revenue is directed against the order dated 28.03.2024 passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Bengaluru [hereinafter referred to as "CIT(A)"], under section 250 of the Income-tax Act, 1961[hereinafter referred to as "the Act"], for the Assessment Year 2020-21 arising out of the intimation dated 29.11.2021 passed by the Centralised Processing Centre, Bengaluru [hereinafter referred to as "CPC"].

Brief Facts of the Case

2. The assessee is a HUF, proprietor of Deep Pharma, who filed its return of income for A.Y. 2020-21 declaring a total income of Rs.85,70,990/-. The return was processed under section 143(1) by the CPC, Bengaluru, vide intimation dated 29.11.2021, wherein the total income was enhanced to Rs.5,09,26,630/- and demand of Rs.2,13,00,550/- was raised. The increase in income was due to two adjustments made in the intimation under section 143(1)(a):

(i) Addition of Rs.4,20,39,630/- treating the same as contingent liability debited to the Profit and Loss Account based on disclosure under clause 21(g) of the tax audit report.

(ii) Disallowance of Rs.3,16,017/- on account of late payment of employees' contribution to PF, which the assessee contended was added twice - once by itself and again by CPC.

3. Aggrieved, the assessee preferred an appeal before the CIT(A). The assessee also sought condonation of delay in filing the appeal, which was accepted by the CIT(A) citing reasonable cause due to illness during the COVID-19 pandemic. Before the CIT(A), the assessee contended that the amount of Rs.4,20,39,630/- was not a real expenditure but a contingent liability merely disclosed in the tax audit report under clause 21(g) for disclosure purposes and was never debited to the profit and loss account. To support its contention, the assessee filed the revised Tax Audit Report, Auditor's certificate clarifying the inadvertent mention and Copies of audited financial statements. As regards the disallowance of Rs.3,16,017/-, the assessee submitted that the same was already disallowed *suo motu* in the return of income, and the CPC made a duplicate disallowance under two different heads in the intimation. The assessee also placed reliance on some judicial precedents including –

- Dwarkadish Spinners Ltd. (ITA No. 4782-83/Del/2012) – ITAT Delhi
- Kay Bee Industrial Alloys Pvt. Ltd. (ITA No. 1032/Kol/2011) – ITAT Kolkata

4. The CIT(A), after examining the profit and loss account and revised tax audit report, concluded that no actual amount was debited towards contingent liability. The disclosure under clause 21(g) was found to be for informational purposes only and not part of income computation. On the disallowance of Rs.3,16,017/-, the CIT(A) accepted that the assessee had already disallowed the amount in the return, and the CPC disallowance resulted in duplication. The revised tax audit report and auditor's certificate corroborated this. Relying on the decisions cited by the assessee, the CIT(A) deleted both additions and allowed the appeal.

5. Aggrieved by the order of CIT(A) preferred an appeal before us raising following grounds:

- a) The learned CIT(A) has erred in law and on facts in deleting the addition of Rs.4,20,39,630/- made by the AO on account of Contingent liability debited to P&L A/c.*
- b) The learned CIT(A) has erred in law and on facts in deleting the addition of Rs.3,16,017/- on account of late payment of employees' contribution to the Provident Fund.*
- c) The appellant craves leave to add, amend, alter, delete or substitute any of the above grounds before or at the time of hearing of the appeal.*

6. During the course of hearing before us, no one appeared on behalf of the assessee. However, the learned Departmental Representative (DR) fairly conceded that the submissions of the assessee before the lower authorities were correct in facts. The DR admitted that the additions were made primarily on the basis of disclosures in the tax audit report and not on any real entries in the books of account or profit and loss account. The DR left the matter to the discretion of the Bench.

7. We have carefully considered the orders of the lower authorities, the materials placed in the paper book, and the submissions recorded before the CIT(A). It is an undisputed fact that the addition of Rs.4,20,39,630/- was made solely on the basis of disclosure under clause 21(g) of the tax audit report, without there being any corresponding debit in the profit and loss account. This fact is corroborated by the financial statements and the revised audit report dated 18.02.2022 furnished by the assessee. The copy of the Auditor's certificate indicating the facts that the amount was inadvertently reported in the original tax audit report and the same is rectified in the revised form 3CD – annexure to the tax audit report in form 3CB. The coordinate benches in Dwarkadish Spinners Ltd. (supra) and Kay Bee Industrial Alloys Pvt. Ltd. (supra) have held that contingent liabilities which are not debited to the profit and loss account cannot be added merely on the basis of disclosure in the audit report. Further, under section 143(1)(a), the scope of adjustment is limited to arithmetical errors, incorrect claims apparent from any information in the return, or disallowance of loss claimed without required return. The adjustment made in the present case does not fall under any of these categories, as it requires verification beyond the return itself.

8. Regarding the disallowance of Rs.3,16,017/- for employees' PF, the assessee had already disallowed the same while computing total income. We have also noted from the statement of total income placed on the record (paper book page No. 31) that the said amount is added to the total income by the assessee as disallowable u/s 36 of the Act. The CPC's duplication of the same disallowance is clearly apparent from the intimation. The CIT(A)'s finding is based on correct appreciation of facts and supported by the revised tax audit report and auditor's certificate.

9. In view of the above discussion and binding judicial precedents, we find no infirmity in the order passed by the CIT(A). Both the

adjustments made by the CPC under section 143(1)(a) were erroneous and rightly deleted by the first appellate authority.

10. In the result the appeal filed by the Revenue is dismissed.

Order pronounced in the Court on 8th May, 2025 at Ahmedabad.

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

**Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER**

Ahmedabad, dated 08/05/2025