

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES: G : NEW DELHI  
BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.1101/Del/2024  
Assessment Year: 2021-22

S. Foam India Pvt. Ltd.,  
7/18, Kirti Nagar,  
Industrial Area,  
New Delhi – 110 015.  
PAN: AAACS2211A

Vs ACIT,  
CPC,  
Bengaluru.

(Appellant)

(Respondent)

Assessee by	:	Shri Manish Kumar, Advocate
Revenue by	:	Shri Manish Gupta, Sr. DR
Date of Hearing	:	05.06.2025
Date of Pronouncement	:	13.06.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 11.01.2024 of the Ld. Commissioner of Income-tax (Appeals), Coimbatore (hereinafter referred to as the Ld. First Appellate Authority or ‘the Ld. FAA’, for short) in Appeals No.NFAC/2020-21/10208062 arising out of the appeal before it against the order dated 11.11.2022 passed u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred as ‘the Act’) by the CPC, Bengaluru (hereinafter referred to as the Ld. AO).

2. The assessee company is engaged in the business of manufacturing of enameled copper wire and copper wire, tin plated and enameled aluminium and

PVC wire and cable. During the year under consideration, return was filed which was processed by the CPC u/s 143(1) of the Act and being aggrieved with the adjustments made, the assessee had filed an appeal before the CIT(A) which has been dismissed giving rise to the present appeal in which the following grounds have been raised:-

*“1. In the facts and circumstances of the case the CIT Appeal erred in sustaining the disallowance of gratuity liability of Rs 2,51,412/- by CPC Bangalore while processing the return which had in fact been deposited before the due date of return for the year under consideration and consequently claimed on paid basis under section 43B of the Act.*

*2. The CIT Appeal while sustaining the addition concerning gratuity liability of Rs 2,51,412/- failed to appreciate that in fact the same was paid on or before the due date of return ie on 26.11.2021 but same was inadvertently typed as 26.11.2022 instead of 26.11.2021 in the statement of facts although supporting challan evidencing deposit of the same on 26.11.2021 was on the record of the CIT(A).*

*3. In the facts and circumstances of the case while sustaining disallowance concerning late deposit of PF and ESI the CIT Appeal failed to appreciate that out of the total disallowance of Rs 1,56,433/- a PF contribution of Rs 80,830/- concerning March 2021 had in fact been deposited before the due date prescribed vide the respective act and the same cannot be subject matter disallowance on account of wrong mentioning of due date as April 2020 instead of April 2021 in the tax audit report which was merely a typographical error.*

*4. That in the facts and circumstances of the case the CIT Appeal failed to appreciate that out of the total disallowance of Rs 1,56,433/- concerning late deposit of PF and ESI, an amount of Rs 38,242/- had already been disallowed and added in the computation of income by the assessee and hence the PF and ESI disallowance to the extent of Rs 38,242/- had already been suffered double taxation which is legally not tenable.*

*5. The appellant craves leave to add amend alter or delete any or all the above grounds of appeal during the course of hearing.”*

3. On hearing both the sides, we find that grounds No.1 and 5 are general in nature. In regard to grounds No.1 and 2, on hearing ld. representatives of both

the sides, we find that variation of Rs.2,51,212/- arises out of gratuity liability and the Id. AR has submitted that the gratuity was deposited before the due date of return and on the basis of the same claim of gratuity expenses have been made u/s 43B of the Act. The Id. AR has pointed towards the fact that in Tax Audit Report it was specifically shown at clause 26B, copy of which is placed at page 62 of the paper book and vide note-9 of the audited financials that the provision for employee benefit gratuity as on 31<sup>st</sup> March, 2021 and 31<sup>st</sup> March, 2020 have been shown at Rs.17,03,807/- and Rs.14,52,395/-, giving rise to difference of Rs.2,51,412/- which was, in fact, provision for gratuity concerning the year under consideration. It was submitted that on account of Covid pandemic, the due date of return was extended upto 15<sup>th</sup> March, 2022 and before that the amount was deposited on 26.11.2021 and, thus, it was submitted that the amount was deposited before the due date of return as extended and it was rightly claimed in the ITR.

4. We find that legality of the claim made to LIC gratuity fund is not disputed. The only dispute is as to the fact that if the amount was deposited before the due date which according to the Id. AR was extended and factually the same appears to be correct as per the return processing intimation u/s 143(1) of the Act.

5. As with regard to the variation done in the total income covered in grounds No.3 and 4, same arises out of same late deposit of Employees Provident Fund and ESI. The Id. AR has submitted that the amounts have been

disallowed on the basis that they were deposited after the due date prescribed on the respective Act and taking the Bench across the tax audit report, it was submitted that with regard to two deposits the contribution for the month of March, 2021 in respect of two different units, the due date to deposit were 15<sup>th</sup> April, 2021, but, inadvertently, it was mentioned to be 15<sup>th</sup> April, 2020 and, thus, the amounts were deposited before the due date.

6. In the light of the aforesaid assertions as made, we are of the considered view that both the issues appear to be factually corroborated by the material on record. However, the same require verification by AO. The Id.CIT(A) has failed to appreciate the aforesaid facts incorrect perspective. Thus, we are inclined to allow the grounds for statistical purposes.

7. The appeal of the assessee is allowed. The impugned assessment is set aside and the impugned issues shall be examined again by the AO, after giving the assessee an opportunity to explain the discrepancy and filing reconciliation as per law. The appeal is allowed for statistical purposes.

Order pronounced in the open court on 13.06.2025.

Sd/-

(MANISH AGARWAL)  
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Dated: 13<sup>th</sup> June, 2025.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi