

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT
MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA. NO.909/Ind/2024
Assessment Year 2020-21

Morni Sarees Pvt.Ltd, C/o G.B. Agrawal & Co, Chartered Accountants, 252, Vikram Tower, 1 st floor, Sapna Sangeeta Road, Indore (PAN: AAKCS9416P)	बनाम/ Vs.	Asst. Director of Income Tax, Income Tax Department, CPC, Bangaluru
(Assessee/Appellant)		(Revenue/Respondent)
Assessee by	S/Shri Ankur Agrawal & Govind Agrawal, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	23.06.2025	
Date of Pronouncement	24.06.2025	

आदेश / ORDER

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee u/s 253 of the Income Tax Act 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal. The assessee is aggrieved

by the order bearing Number: ITBA/APL/S/250/2024-25/1070027154(1) dated **29.10.2024** of Ld. CIT(A) passed u/s 250 of the Act which is hereinafter referred to as the "**impugned order**". The relevant Assessment Year is 2020-21 and the corresponding previous year period is from 01.04.2019 to 31.03.2020.

2.

FACTUAL MATRIX

2.1 That the assessee had filed ITR for Assessment Year 2020-21 on 18.12.2020 vide Ack. No. 842860831181220 with the returned income of **Rs.36,19,580/-**.

2.2 That the assessee follows mercantile system of accounting and therefore had made provision for **Bonus** payable of **Rs.7,19,000/-** in his books of accounts as on 31.03.2020.

2.3 That the aforesaid payments were made before the due date of filing of ITR for **Assessment Year 2020-21**.

2.4 That in intimation u/s 143(1) dated **23.12.2021** disallowance of bonus payable to employees was made of **Rs.7,19,000/-**.

2.5 That the assessee filed the rectification application before the CPC u/s 154 on **07.02.2023** for reprocessing of ITR and rectification of mistake.

2.6 That the rectification order was passed by CPC u/s 154 dated **24.02.2023** in response to above application **which was allowed.**

2.7 It is pertinent to note that the assessee has consistently following the same accounting treatment in the earlier and subsequent years and that such treatment has been accepted by CPC in the intimations issued u/s 143(1) of the Act year after year.

The details of the provision made for bonus payable to employees are as under:-

<i>S.No.</i>	<i>Year</i>	<i>Amount of bonus payable - Provision made on 31st March of the relevant F.Y</i>
<i>1</i>	<i>A.Y 2016-17</i>	<i>Rs.8,89,300</i>
<i>2.</i>	<i>A.Y 2019-20</i>	<i>Rs.5,58,100</i>
<i>3.</i>	<i>A.Y 2021-22</i>	<i>Rs.9,59,000*</i>
<i>4</i>	<i>A.Y 2022-23</i>	<i>Rs.19,82,500</i>

**A.Y 2021-22 under appeal*

2.8 That the provision of **Bonus** payable was made on **31.03.2020** for paying the bonus to the employees as a part of

incentive in the form of salary the same being **not in the nature of statutory due is outside the purview of Section 43B.**

2.9 Therefore the provisions of Section 43B of the Act are clearly not applicable in case of the assessee.

2.10 The intimation u/s 143(1) of the Act dated 23.12.2021 shows total income provided by tax payer as **Rs.36,19,580/-** whereas the revenue has computed as **Rs.43,45,100/-**. The net addition comes to Rs.7,25,600/-. The amount of **Rs.7,19,000/- is disallowed as bonus u/s 36 of the Act. Tax payable is shown as Rs.2,33,580/-**. Therefore there was a **demand** u/s 143(1) intimation dated 23.12.2021 bearing Ack.No. 842860831181220 which is hereinafter referred to as the **"impugned intimation u/s 143(1)"** for sake of **brevity**. The assessee in turn being aggrieved by the **"impugned intimation"** makes a rectification application dated **07.02.2023** in terms of **Section 154** of the Act [Reprocess the Return] and the revenue by a rectification order u/s 154 of the Act dated 24.02.2023 **deletes** the aforesaid amount of **Rs.7,19,000/- earlier disallowed as bonus** (page 22 of paper book). **In brief** by an order **u/s 154** of the Act dated **24.02.2023** revenue has

allowed/withdrawn/deleted the amount of bonus earlier disallowed. [Total income computed at Rs.36,26,100/- instead of earlier computed at Rs.43,45,100/-].

2.11 It is also required to be noted and appreciated that on **16.06.2022** [which date is prior to order u/s 154 dated 24.02.2023 (supra)], the assessee being aggrieved by the **“impugned intimation”** had also filed **“first appeal”** in terms of **Section 246A** of the Act before Ld. CIT(A) who by the “impugned order” has dismissed the appeal of the assessee on reasons and grounds stated therein.

2.12 That the assessee being aggrieved by the **“impugned order”** has filed the instant second appeal before us and has raised following grounds of appeal against the **“impugned order”** which are as follows:-

I. As regards non applicability of provisions of Sec. 36(1)(ii) of I.T. Act, 1961

The Ld. CIT(A) erred in confirming the aforesaid disallowance of Bonus Payable, without appreciating the fact that the appellant had not paid bonus by way of profits or dividend to its employees but had paid the same to employees as part of incentive in the form of salary and therefore the provision of Sec. 36(1)(ii) of I.T. Act, 1961 are not attracted at all and therefore the aforesaid disallowance is arbitrary, unjust and bad in law both on facts and in law.

II. As regards non applicability of provisions of Sec. 43B of I.T. Act, 1961

The Ld. CIT(A) erred in confirming the aforesaid Addition without appreciating the fact that the provisions of section 43 B are not applicable in case of appellant as bonus paid to employees is not covered u/s 43B and therefore the aforesaid disallowance is arbitrary, unjust and bad-in-law both on facts and in law.

III. As regards payment of Bonus of Rs. 7,19,000/- before due date of filing of ITR

Without prejudice to the above, the Ld. CIT(A) erred in confirming the aforesaid disallowance without appreciating the fact that the aforesaid payments had made before the due date of filing of the ITR and therefore the aforesaid disallowance is arbitrary, unjust and bad-in-Law both on facts and in law.

IV. As regards opportunity of personal hearing through video conferencing not provided:

Without Prejudice to the above, the Ld. CIT(A) erred in confirming the aforesaid addition without appreciating the fact that the appellant had specifically and categorically requested for an opportunity of personal hearing through video conferencing and therefore the appeal order passed by Ld. CIT(A) without providing the opportunity of VC is against the principles of natural justice and is also arbitrary, unjust and bad in law both on facts and in law.

V. As regards interest charged u/s 234B & 234C

That the interest charged is arbitrary and erroneous.

VI. That the appellant craves foregoing grounds of appeal leave to add &/or to alter any of the foregoing grounds of appeal as & when necessary".

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 23.06.2025 when the Ld. AR appearing for and on behalf of the

assessee briefly narrated the facts of the case as narrated aforesaid and interalia contended that in view of **order u/s 154 dated 24.02.2023** of CPC wherein the **“impugned intimation order”** stands modified the **“impugned order”** of CIT(A) substantially stands **diluted** as the disallowance of bonus earlier made by impugned intimation is now **reversed** by order u/s 154 dated 24.02.2023 save and except that it was unnecessary for the Ld. CIT(A) to have inserted **Section 36(1)(ii) r.w.s. 43B**. The original disallowance was under Section 36(1)(ii) of bonus as per impugned intimation order and that Section 43B was nowhere in picture. Our attention was drawn to following:-

“But in this case, the bonus amount of Rs.7,19,000/- is shown as Bonus payable as on 31/03/2020, which means that the actual payment was not made during the relevant previous year. Hence the deduction is not allowable as per Section 36(1)(ii) r.w.s 43B wherein it is again reiterated that any sum payable by the assessee as an employer shall be allowed only in the previous year in which such sum is paid.

In view of the above, since the bonus of Rs.7,19,000/- was not actually paid during the year, deduction cannot be allowed for the Assessment Year 2020-21. Hence this ground of Appeal is dismissed.”

3.2 Per contra the Ld. DR appearing for and on behalf of the Revenue contended that in view of order u/s 154 dated

24.02.2023 [page 21-25] wherein impugned intimation order is modified u/s 154 by CPC the present appeal has become nearly infructuous. Since the order u/s 154 dated 24.02.2023 was in place same ought to have been brought to the notice of Ld. CIT(A).

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the “**impugned order**” basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We are of the considered view that since order u/s 154 dated 24.02.2023 (Page 21-25 of paper book) which was modified/rectified impugned intimation u/s 143(1) there is hardly anything more is called for. However since bonus amount is paid before due date of filing return i.e. Rs.7,02,500/- on 18.08.2020 and Rs.16,500/- on 21.08.2020 for which necessary proof of bank statement is placed on record (Page 41 & 42 of paper book) coupled with ledger account of employee showing payment of Rs.7,19,000/- (page 40 of paper book) the impugned order does not survive and is set aside. In fact both statement of bank (SBI)

and so also the ledger account of bonus to employees were filed and were on record before CIT(A), therefore the Ld. CIT(A) ought not to have passed the **"impugned order"** u/s 36(1)(ii) r.w.s. 43B by doing so, he has erred in law.

5. Order

5.1 In the premises, we set aside the **"impugned order"** and **allow the appeal of the assessee.**

5.2 In result, appeal of the assessee is allowed.

Order pronounced in open court on 24.06.2025.

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Sd/-

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 24/06/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore