

आयकर अपीलीय अधिकरण, 'एसएमसी' न्यायपीठ, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL 'SMC' BENCH, KOLKATA

BEFORE SHRI DUVVURU RL REDDY, VICE PRESIDENT

आयकर अपील सं/ITA No.2531/KOL/2024

(निर्धारण वर्ष / Assessment Year : 2021-2022)

Corona Steel Industry Pvt. Ltd. P-34, Radhabazar, India Exchange Place, GP, Kolkata	Vs	DCIT, Central Circle-3(3), Kolkata
PAN No. :AAECS 0449 L		
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Arvind Agrawal, AR
राजस्व की ओर से / Revenue by	:	Shri susanta Saha, Addl. CIT-Sr.DR
सुनवाई की तारीख / Date of Hearing	:	05/05/2025
घोषणा की तारीख/Date of Pronouncement	:	22/07/2025

आदेश / ORDER

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals)-21, Kolkata, dated 18.11.2024 passed for Assessment Year 2021-2022.

2. In this appeal, the assessee has raised the ground against the order of the Id. CIT(A) in confirming the addition/adjustment made by the CPC of Rs.3,04,518/- u/s.36(1)(ii) of the Act and the addition of Rs.13,566/- made on account of delay in depositing ESI and PF.

3. Facts in brief are that the assessee filed its return of income declaring total income at Rs.Nil. The assessee has paid Rs.3,04,51/- to its employees as bonus, however, the CPC has made the addition of the above amount on the ground that the assessee could not provide tax audit report. Further in the computation of income, the assessee has itself already made a disallowance of Rs.13,566/- on account of delay in depositing of employees contribution of ESI and Provident Fund, however, the CPC, Bengaluru has

made the adjustment of the same. In appeal, the Id. CIT(A) has confirmed the view taken by the CPC. Now, the assessee is in further appeal before the Tribunal.

4. Ld. Counsel for the assessee submitted that in the return of income, there was a mistake apparent from record and in this regard, the assessee filed a rectification application u/s.154 of the Act stating that in the given facts and circumstances and as per the audited accounts and tax audit report, the provision of Section 36(1)(ii) of the Act was not applicable and that the delay in depositing of ESI & PF was added back in the computation of Income. However, the CPC passed an intimation u/s.143(1) r.w.s.154 of the Act without rectifying the mistake as pointed out by the assessee, made the adjustment/addition on both the accounts. It was also submitted by the Id. Counsel that during the appellate proceedings, the assessee submitted the details but the Id. CIT(A) without considering the same, confirmed the addition/adjustment made by the CPC. Therefore, the Id. Counsel submitted that the assessee may be given one more opportunity to file all the relevant documents before the Id. CIT(A) in regard to its claim.

5. On the other hand, Id. Sr. DR supported the order of the Id. CIT(A) and submitted that the assessee was unable to substantiate before the Id. CIT(A) with providing relevant documentary evidence. Thus, the Id. Sr. DR prayed that the order passed by the Id. CIT(A) should be upheld.

6. After hearing the submissions of the parties and perusing the material available on record, I find that the assessee could not furnish the tax audit report or any detailed submission against the ground that the

amount of Rs.3,04,518/- paid to its employees as bonus does not fall under the provisions of Section 36(1)(ii) of the Act. Looking to the facts and circumstances of the case and as the assessee failed to submit any documentary evidence in regard to its claim before the Id. CIT(A), I am of the view that it is a fit case to remit the matter back on this issue to the file of Id. CIT(A) for adjudication the issue afresh. Accordingly, the matter is remitted back on this issue to the file of Id. CIT(A) with a direction to dispose off the above issue of the assessee on merits after providing sufficient opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Id. CIT(A), failing which the Id. CIT(A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on record. Thus, this ground raised by the assessee is allowed for statistical purposes.

7. With regard to the other ground in respect of adjustment made by the CPC on account of alleged delay in depositing ESI and PF, the Id. CIT(A) has already set aside the issue to the file of Id. AO for verification. If the assessee's claim is found to be correct then the adjustment made by the CPC in this regard shall stand deleted. Therefore, I have no hesitation to uphold the view taken by the Id. CIT(A) on this issue. Accordingly, this ground of assessee raised before the Tribunal stands dismissed.

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

Order pronounced in the open court on 22/07/2025.

Sd/-
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT

दिनांक Dated 22/07/2025

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR,
ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)
आयकर अपीलीय अधिकरण, कोलकाता /ITAT, Kolkata