

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHENNAI**

**BEFORE MS PADMAVATHY S, AM &
SHRI MANU KUMAR GIRI, JM**

**I.T.A. No. 1344/Chny/2025
(Assessment Year: 2018-19)**

Hindustan Sping Engineering Pvt. Ltd., No. 43/62, Highways Colony, Subramaniapuram, Trichy, Tiruchirappalli, Tamil Nadu-620020. PAN: AADCS0190D	Vs.	Assistant Director of Income Tax, Circle-1(1), Trichy, New No. 44 Old No.4, Williams Road, Trichy, Tamil Nadu-620001.
Appellant)	:	Respondent)

Appellant / Assessee by : Ms. Ankita S. Shah, Advocate & Mr. Avakash C. Jariwala, CA

Revenue / Respondent by : Ms. Gouthami Manivasagam, JCIT

Date of Hearing : 04.08.2025

Date of Pronouncement : 05.08.2025

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/ Addl./JCIT(A)-1, Bangalore [In short 'FAA'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 12.02.2024 for Assessment Year (AY) 2018-19. The assessee raised the following grounds of appeal:

“1. CIT(A)) has erred both in law and on facts in confirming the disallowance of 728,88,100/- towards Employees' State Insurance (ESI) and Provident Fund (PF) payments without properly appreciating the facts, evidences, and detailed submissions made by the Appellant. Both the Ld. CIT(A) and the Ld. Assessing Officer (AO) have passed their orders without due consideration of various explanations, information, and supporting documents filed by the Appellant from time to time, which ought to have been duly examined before passing the impugned order.

2. The disallowance originally reported in the Return filed on 30.09.2018 was 278,05,616/-, including the amount collected towards ESI/PF but not deposited within the prescribed due dates. Thereafter, the Appellant filed another Original Return u/s 119(2)(b) After condonation of delay / Court Order or Sanction Order of Business reorganisation of the Competent authority issued prior to 01.04.2022 filed on 11.11.2019 on 09.11.2019. In this later return, a disallowance u/s 36 of? 28,88,096/- and a disallowance u/s 43B of 768,67,383/- were made, aggregating to a total disallowance of 797,55,479/-. However, the Central Processing Centre (CPC) erroneously processed only the earlier Original Return filed on 30.10.2018 and failed to consider the later valid Original Return filed on 09.11.2019, despite the fact that the taxable income was enhanced by ?19,50,463/-.

3. The Appellant had duly raised the grievance through the E-Nivaran portal on 12.04.2021, but no corrective action has been taken till date. Further, despite the presence of an apparent mistake, CPC did not consider our Rectification Application under section 154 and erroneously raised a demand of? 7,29,770/-. The said demand along with interest of?58,877/- for Assessment Year 2018-19 were wrongly adjusted against the refund of ?12,08,586/- determined in the Order under section 143(1) dated 28.06.2021 for Assessment Year 2020-21, causing serious hardship to the Appellant.

4. The Appellant respectfully submits that the increased disallowance and enhanced taxable income reported in the valid later Original Return filed on 09.11.2019 ought to have been duly considered by the Department. Necessary rectification is requested to correctly determine the tax liability and refund. The orders passed by the Ld. CIT(A) and the Ld. AO are bad in law, contrary to the facts of the case, and deserve to be quashed or suitably modified in the interest of justice.”

2. The assessee is a Private Limited Company and filed the original return of income for AY 2018-19 on 30.01.2018 declaring a total income of Rs. 60,15,700/-. The assessee subsequently filed the revised return of income on 09.11.2019 enhancing the total income of Rs. 79,66,160/- by disallowing the employee contribution towards the ESI & PF not remitted within the due date under section 43B of the Act. The assessee's original return was processed under section 143(1) assessing the income of the assessee at Rs. 89,03,800/-. Aggrieved, the assessee filed further appeal before the CIT(A). Before the CIT(A) the assessee submitted that while processing the return under section 143(1), the CPC has considered the original return of income and not the revised return of income. The assessee further submitted that in the revised return of income that assessee has already disallowed the employee contribution towards ESI & PF and that the CPC erred in not considering the revised return to raise a demand towards the disallowance of delay in remittance of ESI & PF. The assessee also submitted that the assessee tried to file petition for rectification under section 154 which did not go through in the Income-tax Portal. The CIT(A) dismissed the appeal stating that the delay in remitting employee contribution to ESI & PF is covered by the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. [2022] 143 taxmann.com 178 (SC) and that the CPC has rightly disallowed the same. The assessee is in appeal before the Tribunal against the order of the CIT(A).

3. There is a delay of 373 days in filing the appeal before the Tribunal. The assessee filed the petition condoning the delay stating that the Chartered Accountant (CA) who was handling the tax matters of the assessee underwent prolonged hospitalization and surgery and ultimately passed away. The assessee along with petition for condonation has filed necessary documentary evidences in support of

the reasons for the delay. Considering the facts and circumstances of the case, we are of the view that there is a reasonable cause for the delay in filing the appeal before us and accordingly following the Hon'ble Supreme Court decision in the case of Collector, Land Acquisition Vs. MST. Katiji & Ors., (167 ITR 471) (SC) we are condoning the delay of 373 days in filing the appeal before us.

4. We heard the parties and perused the material on record. The assessee filed the original return of income on 30.10.2018 declaring a total income of Rs. 60,15,699/-. The return was processed under section 143(1) whereby the income returned was enhanced to Rs. 89,03,800/-. The contention of the assessee is that in the 143(1) the CPC has enhanced the income by disallowing the employee contribution towards the ESI & PF which is already disallowed by the assessee while filing the revised return of income on 09.11.2019. The assessee is further contending that if the revised return of income is considered then there will not be any demand since the assessee has already paid the tax arising out of the enhanced income after disallowing the employee contribution towards the ESI & PF. From the perusal of the orders of the lower authorities, it is noticed that the revised return of income filed by the assessee on 09.11.2019 enhancing the total income has not been considered by the lower authorities. Further the claim of the assessee that in the revised return filed, the disallowance towards employee contribution to ESI/PF needs to be factually verified. Therefore, we deem it fit to remit the appeal back to the AO to consider the revised return filed by the assessee for the purpose of examining whether the employee contribution towards the ESI & PF already disallowed by the assessee is in accordance with law and that based on the documentary evidences no further disallowance is warranted. The assessee is directed to file the relevant documentary evidences and co-operate with the assessment proceedings. It is ordered accordingly.

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

Order pronounced in the open court on 05-08-2025.

Sd/-
(MANU KUMAR GIRI)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Chennai
4. CIT, Chennai
5. Guard File