IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.652- 653-980/Bang/2025
Assessment Year: 2018-19, 2020-21

Dussters Total Solutions Pvt. Ltd., 332/1, Corporate Miller, 3rd Floor, Thimmaiah Road, 3rd Floor, Vasanth Nagar, Bangalore – 560 052. **PAN – AACCD 5989 Q**	Vs.	The Dy. Commissioner of Income Tax, Circle – 2(1)(1), Bangalore. .
APPELLANT		RESPONDENT

Assessee by	:	Smt. Kavita Jha, Advocate
Revenue by	:	Shri Shivanand H Kalakeri, CIT (DR)

Date of hearing	:	04.11.2025
Date of Pronouncement	:	.12.2025

O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

These appeals are filed by the assessee against the assessment order passed by the NFAC, Delhi vide order dated 17/01/2025, 21/01/2025, 27/02/2025 for the assessment year 2018-19 and 2020-21.

First, we take up ITA No. 652/Bang/2025, an appeal by the assessee for the A.Y. 2018-19

2. The interconnected issue raised by the assessee through Ground Nos. 1 to 9 pertains to the disallowances of deduction claimed under section 80JJAA of the Act for Rs. 14,81,19,175/- only.

3. The relevant facts are that the assessee, a private limited company, is providing facility management services to industry verticals. In the return filed for the year under consideration, the assessee claimed deduction under section 80JJAA of the Act for Rs. 14,81,19,175/-. The return was selected for scrutiny assessment under section 143(3) of the Act.

4. During the assessment proceedings, the AO observed that the claim of the assessee under section 80JJAA of the Act for an amount of Rs. 6,79,40,579/- pertains to the immediate previous F.Y. 2016-17 (relevant to A.Y. 2017-18) and remaining amount of Rs. 8,01,78,596/- pertains to the year under consideration. The AO was of the view that the provisions of section 80JJAA of the Act before the amendment brought by Finance Act No. 28 of 2016 w.e.f. 1st April 2017 require the assessee to be engaged in the manufacturing activity to claim the deduction under this section. However, the assessee is providing facility management services to industry verticals. Hence the AO disallowed the claim deduction of Rs. 6,79,40,579/- pertaining to A.Y. 2017-18 on the grounds that the assessee did not meet the condition to claim deduction under section 80JJAA of the Act.

4.1 Regarding the remaining claim of deduction of Rs. 8,01,78,596/- the AO noted that the assessee is eligible to claim deduction as after amendment there is no requirement of being carried out manufacturing

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activity. However, the AO noted that assessee has not provided the PAN to prove the identity and genuineness of new employees. Further, in cases where PAN were provided for few employees, some of them were also found to be wrong PAN.

4.2 However, the assessee contended that an individual only requires to obtain PAN if his/her income exceeds the threshold limit chargeable to tax. As such, the income of most of the new employees was below the taxable limit therefore the Adhar Card of all the employees was obtained and updated in the system. However, the AO rejected this explanation of the assessee. The AO noted that the annual salary of the employee excluding pension fund and provident fund are varying between Rs. 2,06,600/- to 2,94,276/-. Hence, considering the PF and Pension fund, the annual salary of so claimed new employees exceeds the maximum limit of Rs. 2.5 lakh. Furthermore, the employer (assessee) is required to issue Form-16 in respect of each and every employee considering their income from all sources. But no Form 16 was issued or furnished by the assessee.

4.3 In addition, the AO found that audit report filed by the assessee in Form-10DA for claiming deduction is incomplete. The crucial information in columns Nos. 5(c) to 5(e) is missing. No revised Form 10DA was filed by the assessee. Furthermore, as per the details provided, the new employees were not employed for prescribed period.
In view of the above, the AO concluded that the deduction claimed by the assessee under section 80JJAA of the Act is bogus and fictitious as the assessee failed to bring cogent materials to prove the genuineness of the new employees being employed and they were employed for

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prescribed period. The AO in holding so also referred to the principles of circumstantial evidence and principles of probability. The AO held that the department is not required to prove the impossible but only requires to establish such a degree of probability that a prudent man may on its basis believe in the existence of a fact in the issue involved. As per the AO, the materials available on recorded and analysis of the same establishes that the claim of the assessee under section 80JJAA of the Act for Rs. 8,01,78,596/- for the year under consideration is not genuine. Accordingly, the AO disallowed the entire claim of the assessee under section 80JJAA of the Act for Rs. 14,81,19,175/- and there by assessed the total income at Rs. 25,53,47,324/- as against the return income of Rs. 10,72,28,150/- declared by the assessee.

5. The aggrieved assessee preferred an appeal before the learned CIT(A).

6. The assessee regarding the disallowances of claim of deduction for Rs. 6,79,40,579 pertaining to new employees appointed during the immediately preceding assessment year (2017-18) submitted that no question was raised or proposal was made by the AO to disallow the same. The AO, without providing the opportunity, disallowed the claim on the premises that the assessee was not engaged in manufacturing activity. The assessee argued that the amended provision of section 80JJAA of the Act by the Finance Act 2016 is applicable from 1st April 2017. Hence amended provision which relaxes the condition of manufacturing activity is applicable for A.Y. 2017-18.

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6.1 The assessee also submitted in the immediately preceding assessment year (A.Y. 2017-18) i.e. in the first year of the claim, the deduction was accepted by the AO in the assessment order completed under section 143(3) of the Act. Hence, once the claim in the first year is accepted, same cannot be disputed in the subsequent 2nd and 3rd year of the claim. The assessee in this regard placed reliance on the judgment of Hon'ble Supreme Court in the case of Radhasoami Satsang vs. CIT reported in 193 ITR 321 and CIT vs. Excell Industries Ltd reported in 358 ITR 295.

6.2 Regarding the claim of deduction pertaining to new employees employed during the year under consideration, the assessee submitted that the AO rejected the claim mainly on the ground that the assessee did not submit PAN, Form 16 and other identity documents of all new employees. The assessee submits that this finding is not correct. All necessary information were provided during the assessment proceedings. The assessee furnished complete details of each new employee, including name, address, PIN code, Aadhaar number, salary details, PF contribution details, bank transfer records, Universal Account Number (UAN) allotted EPF organisation to the employee and PAN to the extent available. This information was given through multiple submissions dated 17 January 2021 and 24 March 2021.

6.3 The assessee also submits that Form 10DA was filed. If any part of Form 10DA appeared incomplete, the supporting documents were also attached and provided to the department. The assessee had no intention to hide anything. Further, all payments to new employees were made only through bank transfer. This proves that the employees were

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real and were working for the company. All PF contributions were made regularly. The PF department itself verifies employee identity through Aadhaar. Thus, the genuineness of employees is well supported by independent government records.

6.4 The assessee submits that Aadhaar is a superior and more authentic identity document than PAN. Aadhaar is issued only after biometric verification. It includes fingerprints, iris scans, and demographic information. PAN, on the other hand, is issued only on the basis of simple ID and address proof. Even the Government has admitted that multiple PAN cards have been issued to one person, and that some persons have been issued different PAN numbers. In this regard, the assessee relies on the Hon'ble Supreme Court judgment in **Binoy Viswam v. Union of India**, reported in 82 taxmann.com 211 where the Hon'ble Court held that Aadhaar is more reliable for identifying individuals and avoiding duplication. The CBDT, SIT on Black Money, and several government circulars have also supported Aadhaar as a better means of identity verification.

6.5 The assessee therefore submits that insisting only PAN for verifying new employees is not justified. Aadhaar fully establishes the identity and genuineness of employees. The EPFO also uses Aadhaar to allot UAN numbers. Without Aadhaar, UAN cannot be allotted and PF contribution cannot be made. In this case, each employee had a UAN number and PF contributions were made. This proves that the employees were genuine and not fictitious.

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6.6 The assessee further submits that PAN is not mandatory for all employees. Under section 139A(1) of the Act, PAN is required only when an individual has income above the basic exemption limit. As per the CBDT circular on salary TDS, employers are required to deduct TDS only when the employee's income is taxable. Many new employees were earning below the taxable limit. Hence, PAN was not required for them. The assessee could not be asked to obtain PAN for employees whose salaries were not taxable. Hence, the assessee was fully compliant with the law.

6.7 The assessee also submits that section 139A(5E), read with Rule 114A, clearly permits the use of Aadhaar in place of PAN. PAN itself is now required to be linked with Aadhaar for it to remain valid. Therefore, Aadhaar should be treated as a sufficient identification document for claiming deduction under section 80JJAA of the Act. The Assessing Officer's view that PAN alone proves identity is legally incorrect.

6.8 During the course of assessment, the assessee inadvertently submitted an incorrect PAN for one employee. This mistake was later corrected. The correct PAN and details of all other employees were also provided to the AO. The deduction cannot be denied merely because one PAN was earlier mentioned incorrectly by mistake. The assessee had fully cooperated and had supplied all required details.

6.9 The assessee also submits that the AO wrongly held that Form 16 and other documents were not filed, although these documents were never asked for during the assessment. No opportunity was given to the assessee to clarify or supply any further documents. During the video

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conference hearing, the assessee even requested the AO to indicate if any more information was needed. No question or clarification was asked by the officer. Thus, principles of natural justice were not followed.

6.10 It is also incorrect to say that the employees were only daily wage workers. The assessee had already submitted salary registers, payment records, PF contribution details and other documents. These clearly show that the employees were regular workers. The NFAC's finding that they were not regular employees is therefore unjustified and contrary to the evidence on record.

6.11 In view of these facts, the assessee submits that the deduction under section 80JJAA was wrongly disallowed. All identity documents and employment records were provided. Aadhaar and PF records fully establish the identity and genuineness of the employees. The law does not require PAN for employees who are below the taxable income limit. The assessee had complied with all statutory provisions. The NFAC order suffers from factual and legal errors. Therefore, the assessee prays that the deduction of ₹8,01,78,596 under section 80JJAA may kindly be allowed.

6.12 However, the learned CIT(A) confirmed the disallowances made by the AO for the claim of deduction pertaining to A.Y. 2017-18 and to the year under consideration. The learned CIT(A) held that the AO has given well-reasoned finding. Hence, no inference is called for.

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7. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

8. The learned AR before us filed a paper book running from pages 1 to 271, compilation of case law running from pages 1 to 272 and chart explaining the issue involved.

8.1 The learned AR submitted that the provisions of section 80JJAA of the Act are beneficial in nature. The object of the section is to encourage generation of employment. Therefore, the provision has to be interpreted liberally. It should not be interpreted in a narrow or technical manner. Reliance was placed on the Memorandum explaining the provisions of the Finance Bill, 2016, which clearly shows the legislative intent to widen the scope of deduction and promote employment.

8.2 The learned AR further submitted that the assessee is engaged in the business of facility management services. The assessee is subject to tax audit under section 44AB of the Act. The tax audit report was duly filed. Hence, the basic condition regarding the nature of business and audit requirement is fully satisfied. There is no requirement in section 80JJAA that the assessee must be engaged in manufacturing activity. The condition imposed by the AO and the learned CIT(A) is contrary to the statutory scheme.

8.3 It was submitted that during the relevant assessment year, the assessee had a total workforce of 31,953 employees. Out of this, 2,353 employees qualified as "additional employees" for the purpose of section 80JJAA of the Act. A complete list of these employees was submitted

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before the AO. The details included employee code, name, address, Aadhaar, UAN, PAN wherever available, date of joining, number of days worked and salary details. Thus, there is full compliance with the requirement of employing new workmen.

8.4 The learned AR pointed out that the condition relating to minimum period of employment was also fulfilled. Each of the eligible employees had worked for more than 240 days during the year. The amended provision reducing the requirement from 300 days to 240 days was applicable to the relevant year. The employee-wise working days were verifiable from the records already placed on file and relied upon by the Chartered Accountant for issuing Form 10DA.

8.5 It was further submitted that the salary condition was also complied with. The monthly emoluments of the eligible employees did not exceed ₹25,000 per month. The AO did not point out any specific employee who violated this condition. General observations without pointing out defects cannot be the basis for denial of deduction.

8.6 The learned AR also submitted that all eligible employees were covered under the Provident Fund scheme. Their UAN numbers and contribution details were duly disclosed. The statutory requirement of PF registration was therefore satisfied. Merely because PAN was not available for some employees, the claim cannot be denied, as the Act does not mandate furnishing of PAN or Form 16 of employees for claiming deduction under section 80JJAA of the Act.

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8.7 It was further argued that the deduction claimed was strictly limited to 30% of the additional employee cost, as evident from the detailed computation filed before the authorities. The deduction was claimed only for the eligible year and in accordance with law. There was no excess or inflated claim.

8.8 The learned AR also relied on judicial precedents, including the decision of the Hon'ble Karnataka High Court in CIT v. Texas Instruments India Pvt. Ltd., and the principle laid down by the Hon'ble Supreme Court that beneficial provisions must be interpreted liberally in favour of the assessee.

8.9 In conclusion, the learned AR submitted that all statutory conditions under section 80JJAA were fully satisfied. The denial of deduction was based on incorrect assumptions and extraneous conditions. Therefore, the disallowance made by the Assessing Officer and confirmed by the ld. CIT(A) deserves to be deleted and the deduction claimed by the assessee should be allowed.

9. On the other hand, the learned DR before us vehemently supported the order of the lower authorities by reiterating the findings contained therein.

10. After listening to the arguments from both sides and reviewing the evidence presented, we have considered all the material on record. From the materials available on record, we note that the assessee during the year has claimed deductions under section 80JJAA of the Act on account of employment of new employee for Rs. 14,81,19,175/- which

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include an amount of Rs. 6,79,40,579/- pertaining to A.Y. 2017-18 and remaining amount Rs. 8,01,78,596/- pertains to the year under consideration. The AO disallowed the claim of the assessee for both the years giving different reasons as discussed in preceding paragraph and the learned CIT(A) concurred with the view taken by the AO.

10.1 Before going into the issue on hand, we proceed to discuss the brief history of section 80JJAA of the Act. The provision was introduced by the Finance (No. 2) Act, 1998, with effect from 1 April 1999 with the specific object of encouraging the generations of employment by giving an additional deduction for salary and wages paid to additional employees employed during the previous year. As per sub section 1 to section 80JJAA, the deduction was available to Indian company deriving profit and gains from the industrial undertaking engaged in manufacture or production of articles or things. The deduction is provided equal to 30% of wages/salary paid to the new regular workmen during the previous year and such deduction was available for 3 three years which included the previous year in which new regular employed and next two years. The "regular workman" was defined as not a casual workman or workmen employed through labour contract and it was also required to employed for minimum period of 300 days. Similarly, the meaning of workmen was assigned as defined in clause (*s*) of section 2 of the Industrial Disputes Act, 1947.

10.2 The provision of subsection (1) was amended vide Finance Act 2013 w.e.f. 1st April 2014, wherein the requirement of "*Indian company deriving profit and gains form the industrial undertaking engaged in manufacture or production of article or things*" was substituted with

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"*Assessee being an Indian company deriving profit and gains from manufacture of goods in a factory".* The meaning of workmen and regular workmen remains the same.

10.3 Major amended was brought vide Finance Act 2016 with the purpose to relax the provisions and provide deduction at large scale to every assessee being company, firm, proprietary concern etc. who were subject to Tax Audit under section 44AB of the Act. The concept of "workmen" was removed, and the section was made applicable to all new employees, regardless of the type of industry. The earlier restriction limiting the benefit to companies was removed. This widened the reach of the provision to firms, LLPs, and other business entities. The minimum period of employment was reduced from 300 days to 240 days for most industries. A special threshold of 150 days was introduced for labour-intensive sectors like apparel, footwear and leather industries. These sectors often operate seasonally and employ large numbers of workers. The Government wanted to support these industries by making it easier to qualify for the deduction. The amendment also recognised employment generated in new businesses and new industrial units. The overall motive of this amendment was to make the provision practical, broad-based, and aligned with modern employment patterns. It reflected the Government's attempt to encourage both manufacturing and service sector employment and to promote formal employment with social security coverage.

10.4 Now coming to the case on hand, so far as the deduction relating to AY 2017-18 is concerned, we observe that the assessee's claim for the first year was already examined and accepted by the Department in the

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assessment completed under section 143(3) of the Act. The copy of the assessment order for A.Y. 2017-18 is available on pages 172 to 173 of the paper book. Once the claim is accepted in the first year, the deduction for the second and third year cannot be denied unless there is a material change in facts, which is not the case here. The law in this regard has been clearly laid down by the Hon'ble Supreme Court in *Radhasoami Satsang v. CIT* (supra) and *CIT v. Excel Industries Ltd.(supra)*, where it has been held that consistency must be maintained when facts remain identical. The AO had never issued any show-cause or query during the assessment proceedings proposing to deny the earlier year's claim. The disallowance was made behind the assessee's back and in violation of the principles of natural justice. Further, the AO's finding that the assessee was not engaged in manufacturing activity is wholly irrelevant because the amended provisions of section 80JJAA of the Act, which removed the manufacturing requirement, were already applicable from 1 April 2017 and hence applied to AY 2017-18. From the memorandum explaining the provision it can be verified that the amended provision is applicable for A.Y. 2017-18 and subsequent assessment year. The memorandum explaining the provision is extracted as under:

> *The existing provisions of Section 80JJAA provide for a deduction of thirty percent of additional wages paid to new regular workmen in a factory for three years. The provisions apply to the business of manufacture of goods in a factory where 'workmen' are employed for not less than three hundred days in a previous year. Further, benefits are allowed only if there is an increase of at least ten percent in total number of workmen employed on the last day of the preceding year.*
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> *With a view to extend this employment generation incentive to all sectors, it is proposed to provide that the deduction under the said provisions shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to twenty five thousand rupees per month. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.*

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It is further proposed to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days and also the condition of ten per cent increase in number of employees every year is proposed to be done away with so that any increase in the number of employees will be eligible for deduction under the provision.
It is also proposed to provide that in the first year of a new business, thirty percent of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.
This amendment will take effect from 1stApril, 2017 and will accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

10.5 In view of the above detailed discussion, we hold that the disallowance of ₹6,79,40,579, pertaining to AY 2017-18, is unsustainable.

11. Coming to the deduction of ₹8,01,78,596 claimed for the year under consideration, we note that the AO has rejected the claim mainly on the ground that PAN and Form-16 of all employees were not furnished, and that Aadhaar cards and PF records were not sufficient to establish the identity and genuineness of employees. On careful examination of the paper book and submissions, we note that during the year under consideration assessee claimed deduction for salary paid to 2353 new additional employee. It is evident that the assessee filed comprehensive employee-wise details including name, address, Aadhaar number, UAN number, salary registers, PF contribution details, and bank transfer proofs for each employee. These details were provided through multiple written submissions. The assessee also provided PAN of 426 employee out of 2353 employee. The details of the 2353 additional employees are available at pages 83 to 135 of the paper book in tabular form containing above mentioned details. Furthermore, the payments to all new employees were made only through banking channels, and PF contributions were made every month, after Aadhaar-based verification

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by the EPFO. These records fully establish the genuineness and existence of the employees. Aadhaar, which is a biometric-based identity proof, provides far stronger authentication than PAN, and the Hon'ble Supreme Court in *Binoy Viswam (supra)* has recognised Aadhaar as a more reliable identity mechanism. We are also in agreement with the assessee that the PAN is not mandatory for individuals earning below the basic exemption limit. Many new employees were low-income workers whose incomes did not exceed the basic exemption limit. Therefore, the assessee cannot be faulted for not furnishing PAN in every case. Similarly, the AO's observation regarding Form-16 is misplaced because Form-16 is required only when TDS is deducted, which in turn arises only when the employee's income crosses the taxable limit. Hence, the absence of Form-16 cannot be a ground to deny deduction.

11.1 We also find that the AO's allegation that the assessee furnished an incomplete Form-10DA is incorrect. The assessee has demonstrated that Form-10DA, along with supporting documents, was duly filed. Even if certain columns were incomplete, the deduction cannot be denied when all substantive evidence is placed on record. The law is well settled that a technical or minor defect in a report cannot defeat a substantive statutory claim when the underlying conditions are fulfilled. The AO's finding that some employees did not complete the minimum number of days is also contrary to the evidence submitted, which clearly shows that each new employee satisfied the statutory period prescribed under the amended law.

11.2 The AO has placed reliance on "circumstantial evidence" and the theory of probability, but such presumptions cannot override concrete

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documentary evidence such as Aadhaar-verified PF records, salary registers, bank statements, and UAN allocations by EPFO. The Department has not brought any evidence to show that the employees were non-existent or fictitious. It is well settled position of the law that suspicion, howsoever strong, cannot take the place of proof. In the present case, the assessee has produced all primary evidence, whereas the AO's findings are based only on conjectures and assumptions. The ld. CIT(A) has mechanically affirmed the AO's order without independently examining the voluminous documentary evidence placed on record.

11.3 We further observe that the purpose of section 80JJAA of the Act is to incentivise the creation of new employment. The legislative history of the provision, especially the 2016 amendment, shows that the Government intended to liberalise the provision and make it widely available to all employers engaged in labour-intensive activities. The assessee, being a facility management service provider with thousands of workers, squarely falls within the category of employers who fulfils the requirement of the provisions of the impugned section. Therefore, a liberal and purposive interpretation is required, consistent with the object of the statute. The AO's narrow technical approach frustrates the very purpose for which section 80JJAA of the Act was introduced.

11.4 Considering the entire materials on record, the documentary evidence furnished by the assessee, the legal position regarding PAN and Aadhaar, the acceptance of the claim in the first year, and the legislative intent of section 80JJAA of the Act, we are of the considered view that the disallowance made by the AO and sustained by the CIT(A)

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is wholly unjustified. The assessee has fully satisfied all statutory conditions and has duly proved the identity, existence, and eligibility of new employees. The deduction claimed is genuine and allowable. Accordingly, we direct the AO to allow the full deduction of ₹14,81,19,175 under section 80JJAA of the Act. Hence the ground of appeal raised by the assessee is hereby allowed.

12. The next issue raised by the assessee is that the AO erred in considering the income under the head PGBP at Rs. 33,39,41,406/- instead of Rs. 24,49,58,072/- as reported in ITR.

13. The necessary facts are that the assessee in the return filed for the year under consideration declared income under the head PGBP at Rs. 24,49,58,072/- and from other sources at Rs. 1,03,89,252/-. The assessee after claiming deduction under section 80JJAA of the Act declared taxable income of Rs. 10,72,28,150/- only.

14. In the assessment order, the AO disallowed the claim under section 80JJAA of the Act and accordingly assessed the total income at Rs. 25,53,47,343/- i.e. business income of Rs. 24,49,58,072/- and other income of Rs. 1,03,89,252/-. However, the AO while computing the tax liability in the computation attached to demand notice taken the business income at the 33,39,41,406/- and other income of Rs. 1,03,89,252/- and accordingly computed the total income at Rs. 34,43,30,854/- only.

15. Being aggrieved, the assessee is in appeal before us.

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16. The learned AR reiterated the contentions raised during the appellate proceedings whereas on the other hand, the learned DR before us vehemently supported the order of the authorities below.

17. We have heard the rival contentions of both the parties and perused the materials available on record. The limited grievance of the assessee is that although the AO, in the body of the assessment order, has accepted the income under the head "Profits and Gains of Business or Profession (PGBP)" at ₹24,49,58,072/-, but the AO, while preparing the computation of tax liability, has wrongly taken the business income at ₹33,39,41,406/- only. This has resulted in an incorrect determination of gross total income at ₹34,43,30,854. The mistake is apparent on the face of record.

17.1 On a careful reading of the assessment order, it is clear that AO has made no addition to the business income except for the disallowance made under section 80JJAA of the Act. Even after such disallowance, the AO has computed the assessed business income at ₹24,49,58,072/- and other income at ₹1,03,89,252/-. These two figures form the basis of the assessed total income of ₹25,53,47,324/-. Therefore, the figure of ₹33,39,41,406/- adopted by the AO in the final computation sheet does not flow from the assessment order and is inconsistent with the AO's own findings.

17.2 This clearly shows that the higher business income mentioned in the computation is a clerical or arithmetical error. Such a mistake is not supported by any reasoning, addition, or discussion in the assessment order. The Department has also not brought any material to show that

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the figure of ₹33,39,41,406/- has any factual or legal basis. When the order itself records business income at ₹24,49,58,072/-, the AO cannot adopt a different figure for the purpose of computing tax liability. It is settled law that the computation of income must strictly follow the findings recorded in the assessment order, and any deviation must be supported by a lawful addition, which is not the case here.

17.3 The error has resulted in an inflated total income and an incorrect determination of tax demand. Such an error cannot be allowed to stand because correctness of computation is a fundamental requirement of any assessment. We cannot ignore a patent and undisputed computational error which adversely affects the assessee.

17.4 In view of the above facts and the clear inconsistency between the assessment order and the computation sheet, we hold that the adoption of business income at ₹33,39,41,406/- is erroneous and unsustainable. We, therefore, direct the AO to recompute the tax liability strictly based on the correct assessed business income of ₹24,49,58,072/- and the other income of ₹1,03,89,252/- as recorded in the assessment order. The AO shall accordingly issue a fresh computation and modify the demand. This ground of the appeal of the assessee is allowed.

18. The next issue raised by the assessee is that the AO erred in granting the TDS credit only to the extent of Rs. 10,12,61,591/- instead of Rs. 10,20,98,747/- as reported in Form 26AS.

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19. At the outset, we note that the assessee has raised this issue before the learned CIT(A) also who directed the AO to verify and examine the relevant documentary evidence and allow the appropriate relief after verification.

20. We do not find any infirmity in the finding of the learned CIT(A). Accordingly, we also direct the AO to allow the appropriate relief of TDS credit after verifying and examining the relevant evidence. Hence the ground of the assessee is allowed subject to direction.

21. In the result, the appeal filed by the assessee is hereby allowed.

Coming to ITA No. 980/Bang/2025, an appeal by the assessee for the A.Y. 2018-19.

22. The only interconnected issue raised by the assessee is that the learned CIT(A) erred in confirming the adjustment made in the intimation issued u/s 143(1) of the Act for Rs. 3,72,71,539/- on account of delayed deposit of EPF/ESI.

23. The necessary facts are that the assessee for the year under consideration filed return of income declaring total income at Rs. 10,72,28,150/- only. The return was processed and intimation under section 143(1) of the Act was generated, wherein adjustment of Rs. 3,72,71,539/- was made on account of delayed deposit of EPF and ESI. Being aggrieved by the adjustment, the assessee preferred appeal before the learned CIT(A).

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24. Before the learned CIT(A), the assessee submitted that the delays in PF/ESI deposits were due to genuine and unavoidable reasons. A large part of the delay was caused by technical issues in the PF and ESI portals. These issues have been faced by employers throughout the country. The assessee tried to make payments on time, but the portal did not allow the completion of the transaction. As soon as the portal issues were resolved, the assessee deposited the contributions. Nevertheless, the assessee usually used to deposit such liability within one or two days of the due date. Email communications with PF authorities, and newspaper reports confirming widespread glitches, were filed in support of the claim.

24.1 It was also submitted that the assessee also faced major difficulties because of Aadhaar-UAN linking requirements. In 2017, EPFO made it compulsory to link Aadhaar with UAN without which contributions could not be deposited. Many employees had mismatches in name, father's name or date of birth. Correcting these errors required joint requests from the employer and employee which could be processed only by EPFO officers. The assessee has submitted copies of representations made by the parent company (SIS India Ltd.) to EPFO. EPFO itself admitted the technical and linking problems. Due to these issues, delay in some cases was unavoidable.

24.2 The assessee further submits that law does not compel a person to do what is impossible. Several Hon'ble Courts have held that when an assessee is prevented from timely compliance due to reasons beyond control, such delay should not result in disallowance. Decisions of the Hon'ble Supreme Court and Hon'ble High Courts on the doctrine of *lex*

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non cogit ad impossibilia are relied upon. These legal principles apply directly to the assessee's case such as:

- State of Rajasthan vs. Shamsher Singh (1985 AIR 1082)
- State of MP vs. Narmada Bachao Andolan (2011) 7SCC 639

24.3 The assessee also submitted that employees' and employer's contributions both fall within the scope of section 43B of the Act when paid before filing the return of income. In this regard the assessee referred decision of The Hon'ble Karnataka High Court in Sabari Enterprises reported in 298 ITR 141 and Essae Teraoka reported in 366 ITR 408. Accordingly, the assessee argued that, when PF/ESI contributions are paid before filing the return, no disallowance can be made.

24.4 On these facts and legal principles, the assessee submits that the delayed payments were caused by portal failures, Aadhaar-UAN mismatch, system errors, and other practical difficulties. These were beyond the assessee's control. All payments were made before filing the return. Hon'ble Courts have consistently held that such contributions are allowable. Hence, the disallowance of ₹3,72,71,269 must be deleted.

24.5 However, the learned CIT(A) after considering the facts in totality noted that the appellant relied on earlier decisions of the jurisdictional Hon'ble Karnataka High Court in the case of Sabari Enterprises (supra) and Essae Teraoka (supra). In those decisions, the Hon'ble Courts had allowed deduction of employees' share of PF and ESI if the deposits were made before filing the return of income. The appellant also referred to earlier ITAT and CIT(A) orders in its own cases for AYs 2011-12, 2012-13 and 2013-14, where similar disallowances were deleted.

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24.6 However, the ld. CIT(A) observed that the legal position has now been settled by the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. vs. CIT (2022) 448 ITR 518 (SC). The Hon'ble Supreme Court has clearly held that employees' contribution to PF and ESI must be deposited within the due date prescribed under the respective PF/ESI Acts. If the contribution is deposited after the statutory due date, then the amount contributed by the employees will be income of the assessee under provision of section 36(1)(va) r.w.s. 2(24)(x) of the Act. The Hon'ble Supreme Court also explained the difference between employer's contribution and employee's contribution. The employer's contribution falls under section 43B, while employees' contribution is governed only by section 36(1)(va) of the Act. Therefore, section 43B of the Act cannot override section 36(1)(va) of the Act. The ld. CIT(A) held that this decision of the Hon'ble Supreme Court is binding and must be followed.

24.7 The learned CIT(A) further noted that the Hon'ble Supreme Court clarified that the law laid down in Checkmate Services (supra) applies retrospectively, because it only explains the correct legal position. Therefore, earlier Hon'ble High Court decisions which were favourable to the assessee cannot be relied upon. Similarly, earlier ITAT or CIT(A) orders passed in favour of the appellant also cannot help the appellant now. The ld. CIT(A) also referred to the decision of the Kolkata ITAT in Siddhi Vinayaka Graphics in ITA No. 143/kol/2023 and the Hon'ble Bombay High Court in Rohan Korgaonkar in TS-85-HC-2024(Bom), where the authorities have applied the Hon'ble Supreme Court's ruling retrospectively and upheld similar disallowances.

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24.8 The learned CIT(A) then considered the appellant's explanation regarding the delays in depositing PF/ESI dues i.e. delays occurred due to PF and ESI portal issues, Aadhaar-UAN linking problems, technical glitches and other practical difficulties. The learned CIT(A) accepted that some e-mails from PF authorities indicated technical issues. But the ld. CIT(A) noted that these e-mails were related only to June 2017, and for this month the appellant had already deposited PF on time. Therefore, such documents could not justify delays for other months. The ls. CIT(A) also noted that the appellant did not provide sufficient evidence to establish that portal issues or technical problems actually caused the delay in month-wise payment. For Aadhaar-related delays amounting to ₹20,98,672, the ld. CIT(A) accepted that the circumstances appear reasonable. However, the CIT(A) stated that she was not the competent authority to condone such delay, and the appellant must approach the appropriate authority separately.

24.9 The learned CIT(A) also observed that several reasons mentioned by the appellant for other delayed payments were not supported by documentary evidence. The learned CIT(A) further noted that similar delays were seen in earlier years as well. This suggested that the pattern of delay was a usual practice of the appellant. In view of these facts and following the binding Hon'ble Supreme Court's judgment in Checkmate Services (supra), the learned CIT(A) held that the submissions of the appellant could not be accepted. Therefore, the ld. CIT(A) confirmed the disallowance of ₹3,72,71,539 relating to delayed deposit of employees' contribution to PF/ESI.

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25. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

26. The learned AR before us submitted that the delay in depositing employees' PF and ESI contributions was not intentional. He explained that the delay occurred because the PF and ESI portals were not functioning properly during several periods. He stated that the EPFO website was down on many occasions, and payment could not be completed even though the assessee tried to deposit the amount before the due date. The learned AR produced screenshots showing that the PF portal was not working. He also filed copies of emails sent by the PF authorities acknowledging technical glitches. He emphasised that when the system itself was not working, the assessee cannot be treated as having violated the law.

26.1 The learned AR further submitted that the delay was also caused by Aadhaar-UAN linking issues. Many employees had mismatches in their Aadhaar details, and the portal did not accept contributions until the linking was corrected. These corrections required approval from EPFO officers and were beyond the assessee's control. The learned AR stated that once the errors were rectified, the assessee deposited the dues immediately. He argued that such delay cannot be attributed to the assessee.

26.2 The learned AR placed reliance on the decision of the Delhi ITAT in Protiviti India Member Pvt. Ltd. In ITA No. 2958 & 2959/Del/2022, where it was held that if the delay is not attributable to the assessee, then disallowance under section 36(1)(va) cannot be made. He

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submitted that the present case is similar, as the delay happened due to reasons fully outside the assessee's control. He argued that the assessee should not be punished for technical failures of a government portal.

26.3 The AR also argued that the adjustment made by the CPC under section 143(1) of the Act was beyond jurisdiction. He explained that section 143(1) of the Act permits only prima facie adjustments that are clear from the return itself. He stated that whether the delay was justified, and whether the assessee had reasonable cause, is a debatable issue. Such issues cannot be decided under section 143(1) of the Act without issuing notice or giving opportunity. He relied on several decisions, including those of the Hon'ble Supreme Court in Kvaerner John Brown reported in 170 taxman 304, and of the Hon'ble Delhi High Court in case of Easter Industries Ltd vs. Union of Inida in 349 ITR 324 and Calcutta High Court in case of Mintri Tea Co. Pvt Ltd vs. CIT in 223 CTR 241, where it was held that only obvious and undisputed errors can be adjusted under section 143(1) of the Act.

26.4 The learned AR further submitted that the Finance Act 2021 amendments to section 36(1)(va) and section 43B of the Act were prospective and apply only from AY 2021-22 onwards. He referred to the Memorandum explaining the amendments, which clearly states that the new provisions take effect from 1 April 2021. Therefore, those amendments cannot be applied to AY 2018-19. He relied on various Tribunal decisions confirming that the amendments cannot be applied retrospectively.

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26.5 In conclusion, the learned AR submitted that the delay was caused by events beyond the assessee's control, that the assessee acted responsibly and deposited the dues promptly once the systems allowed, and that the adjustment under section 143(1) of the Act is invalid. He therefore prayed that the disallowance sustained by the CIT(A) be deleted in full.

27. On the other hand, the learned DR before us relied on the order of the authorities below.

28. We have heard the rival contentions of both the parties and perused the materials available on record. The only issue before us is the disallowance of ₹3,72,71,539/- for delayed deposit of employees' contribution to PF and ESI under section 36(1)(va) of the Act. The assessee has explained the reasons for delay in detail. The assessee has also produced supporting documents such as emails with PF authorities, newspaper reports on PF portal failures, and evidence of Aadhaar-UAN linking issues. These facts have not been disputed by the lower authorities.

28.1 We find that the assessee has demonstrated that a major portion of the delay was due to reasons that were completely beyond its control. The PF and ESI portals were experiencing ongoing technical problems during the relevant period. These problems were not limited to the assessee but affected employers across the country. The assessee attempted to deposit contributions within time, but the system did not allow the completion of payments. Once the technical issues were resolved, the assessee deposited the dues immediately, usually within

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one or two days. These facts show that the delay was not deliberate or intentional.

28.2 We also note that the year 2017 witnessed the nationwide implementation of the Aadhaar-UAN linkage requirement. Several employees of the assessee had mismatches in their Aadhaar details, including name, father's name and date of birth. Such mismatches prevented the deposit of PF until the records were corrected. These corrections could be done only by EPFO officers after joint requests from both employer and employee. The assessee has filed evidence that the parent company had repeatedly approached EPFO, and EPFO itself acknowledged operational issues. Therefore, we hold that the delays arising from Aadhaar-UAN linking were genuine and unavoidable.

28.3 It is a well-settled principle of law that *the law does not compel a person to do the impossible*. This principle has been affirmed by the Hon'ble Supreme Court in several decisions. When a statutory obligation cannot be completed due to reasons outside the assessee's control, the delay must be treated as a reasonable cause. In the present case, the assessee has clearly shown that the delay was due to portal failures, technical glitches, and statutory system-driven obstacles. These constitute valid circumstances beyond the assessee's control.

28.4 We therefore hold that the delay in deposit of PF/ESI contribution is sufficiently explained and satisfactorily justified. Once a reasonable cause is established, a disallowance cannot be sustained merely because the deposit crossed the statutory due date. The objective of the law is to ensure that the contributions are ultimately paid. In this case, the entire

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amount has been deposited. The Government has suffered no loss, and the employees' interests have been fully protected. Hence, the substantive compliance has been achieved.

28.5 We also note that the disallowance was made through an adjustment in processing under section 143(1) of the Act. It is now well accepted that such adjustments can be made only when there is a clear and obvious error. In cases involving factual explanations, technical issues, and reasonable-cause claims, no such adjustment can be made. Whether the delay was justified is a debatable issue and cannot be decided through a summary adjustment under section 143(1) of the Act. Therefore, the adjustment made by CPC itself is improper and beyond the permissible scope of section 143(1) of the Act.

28.6 As regards the assessee's argument that employees' contribution is also covered by section 43B of the Act, we are unable to accept this contention. The Hon'ble Supreme Court in Checkmate Services Pvt. Ltd. (supra) has clearly held that section 43B of the Act applies only to employer's contribution. Employees' contribution is governed exclusively by section 36(1)(va) of the Act. Therefore, section 43B of the Act cannot override the statutory due date prescribed for employees' contribution. We therefore reject the assessee's argument on this legal point.

28.7 However, we emphasise that even under section 36(1)(va) of the Act, the law allows consideration of reasonable cause when the delay is not deliberate and is supported by proper evidence. The disallowance under section 143(1) of the Act cannot ignore documentary material showing that the delay was beyond the assessee's control. The assessee

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has provided such evidence. The learned CIT(A) has also accepted that at least some part of the delay (relating to Aadhaar-UAN issues) appears reasonable. Once this is accepted, the disallowance cannot survive.

Procedure

28.8 The Delhi Tribunal in the case of Protiviti India Members Private Ltd. VS ACIT in ITA Nos. 2958 & 2959/Del/2022 vide order dated 14-02-2024 has held as under:

> ***3.*** *Before us, learned counsel for the assessee submitted that most of the employees' contributions to PF and ESI account have been paid within the due date, however, in some cases the delay is only marginal of 3 to 7 days. The delay is not attributable to the assessee because the EPFO website was not working properly due to which EPF challan could not be generated. In support, he has also filed copy of email written to SRO, Noida, EPFO, stating that EPFO site was not working on these dates. He has also filed copy of screenshots of the site showing that it was out of order. This has also been explained before the CIT(A) also. Once the delay is not attributable to the assessee because of the EPFO website was not working and was out of order, then the assessee cannot be said to have violated any deadline of the provisions of the respective Act. Thus, it cannot be said that there is a delay in depositing of PF and ESI within the prescribed due date. Here it is not a case of whether the decision of Hon'ble Supreme Court in case of Checkmate (supra) has to be applied because the Hon'ble Supreme Court has held that if there is a delay in the payment beyond the prescribed due date provided in the respective Act, the same shall be treated as the income of the assessee. Once the delay in depositing the PF and ESI is not on account of failure of the assessee, but the failure of the system of website itself as it was out of order and challans cannot be uploaded, then it cannot be held that the assessee should be fastened with such a liability. Accordingly, the disallowance confirmed by the CIT(A) is deleted.*
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> ***4.*** *In the result, both the appeals of the assessee are allowed.*

28.9 Considering the above facts, the doctrine of impossibility, and the evidence of technical failures and statutory system obstacles, we hold that the disallowance is unsustainable. Accordingly, the adjustment made by CPC and confirmed by the learned CIT(A) is deleted. Hence, the ground of appeal raised by the assessee is allowed.

In the result, the appeal of the assessee is hereby allowed.

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Coming to ITA No. 653/Bang/2025, an appeal by the assessee for 2020-21

29. The first issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 6,20,17,274/- on account of delayed deposit of EPF/ ESI contribution of the employees.

30. At the outset, we note that the issue raised by the assessee in its grounds of appeal for the AY 2020-21 is identical to the issue raised by the assessee in ITA No. 980/Bang/2025 for the assessment year 2018-19. Therefore, the findings given in ITA No. 980/Bang/2025 shall also be applicable for the assessment year 2020-21. The appeal of the assessee for the A.Y. 2018-19 has been decided by us vide paragraph No. 28 to 28.9 of this order in favour of the assessee. The learned AR and the DR also agreed that whatever will be the findings for the assessment year 2018-19 shall also be applied for the assessment year 2020-21. Hence, the ground of appeal filed by the assessee is hereby allowed.

31. The next issue raised by the assessee is that the learned CIT(A) erred in confirming the disallowances of provision for expenses for Rs. 1,08,63,280/- only.

32. The AO observed that the assessee had made provisions for certain expenses during the year. These included a provision of ₹11,63,600/- under the head *Pest Control Expenses* and ₹96,99,680/- under the head *Reimbursable Expenses – Billable*. The AO issued a show-cause notice asking the assessee to explain why these provisions

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should not be disallowed, since they were not actual expenses incurred during the year.

32.1 The AO examined the reply submitted by the assessee. The assessee stated that it follows the mercantile system of accounting and therefore recognises income and expenditure on an accrual basis. The AO found this explanation not acceptable. The AO held that under section 37(1) of the Act, only those expenditures are allowable which are actually incurred in the relevant previous year. A mere provision for an expense, without the expense having been incurred, cannot be allowed as a deduction.

32.2 The AO further noted that provisions made for expenses do not represent a liability that crystallised during the year. Since the assessee had only created book entries and had not incurred expenditure in reality, the deduction of provisions cannot be allowed. The AO, therefore concluded that the amounts of ₹11,63,600 and ₹96,99,680 were not incurred during the relevant year and hence are not admissible as deductions. Accordingly, the AO disallowed the total amount of ₹1,08,63,280 under section 37(1) of the Act and added back to the income of the assessee while completing the assessment.

33. The aggrieved assessee preferred an appeal before the learned CIT(A) who confirmed the disallowances by observing as under:

> *"8.2 A perusal of the Assessment order reveals that the AO has made the impugned addition mainly for the reason that any provision made for the expenses are not accepted as it is not incurred in the relevant previous year.*
> *8.3 Further, the appellant during the course of assessment proceedings has also not been able to substantiate its claim that provisions made for any expenditure are allowable. Also during the course of appellate proceedings, the appellant had failed to submit any cogent reply in support of its claim for allowability of expenses which were not incurred in the relevant previous year.*

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However, the provisions which are not ascertained liability whereas only ascertained liabilities are allowable expenses u/s 37(1) of the I.T.Act.
8.4 Looking into the facts of the case brought on record by the AO in detail, and as discussed above, it is amply clear that the assessee had wrongly claimed the provisions made for "Pest Control Expenses" and "Reimbursable Expenses Billable" which were not incurred. Therefore, the AO has correctly added the same by invoking the provisions of section 37(1) of the I.T.Act. Therefore, the ground of appeal taken by the appellant is dismissed."

34. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

35. The learned AR before us submitted that the assessee had correctly booked and claimed the total expenses under the head "Pest Control Expenses," which included a provision of ₹11,63,600/- only. He also explained that the assessee had made provision for "Reimbursement–Expenses Billable," because the invoices for these services were not received within the financial year. He referred to the reply dated 07.09.2022 and pointed out that the services were actually received during the year under consideration. He submitted that the invoices were raised in the next financial year, i.e., FY 2020-21 relevant to AY 2021-22. Therefore, the total amount of service could not be quantified before year-end.

35.1 The learned AR stated that the assessee follows the mercantile system of accounting. Under this system, income and expenditure are recognised on an accrual basis. He argued that section 145 of the Act supports this method. Since the assessee shows income and expenditure on accrual basis, the related expenditure must be allowed under section 37 of the Act. He explained that at the end of each year, the assessee is required to create a provision for expenses for which invoices or bills are not yet received. In the present case, the assessee had a fair estimate of

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the expenditure related to pest control services, and the invoices were received in the subsequent financial year.

35.2 The learned AR further submitted that making such provisions is a matter of business practice. He explained that the business must record estimated expenses when services are already received but the invoice is not yet available. He stated that the assessee had a reasonable basis for estimating the expenditure and creating the provision. Therefore, the provision represents a real and ascertained liability of the year.

35.3 The ld. AR emphasised that provisions for expenses are allowable under the Income Tax Act when certain conditions are met. These conditions include the liability having crystallised based on a past event, the amount being reasonably ascertainable, and the provision being made on a rational and scientific basis. He submitted that all these conditions were satisfied by the assessee.

35.4 To support this contention, the ld. AR relied on several judicial decisions. He referred to the Hon'ble Supreme Court decision in *Bharat Earth Movers v. CIT* (245 ITR 428), which held that an accrued and ascertained liability is deductible even if payable in the future. He also relied on decisions of the Hon'ble Karnataka High Court in *Wipro GE Medical Systems Ltd.* (387 ITR 77) and *CGI Information Systems and Management Consultants Pvt. Ltd.* (455 ITR 270). Further, he placed reliance on the Hon'ble Karnataka High Court ruling in *PCIT (Appeals) v. CES SOMA CICI JV* (456 ITR 705), which also supports the allowability of such provisions.

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35.5 The ld. AR therefore argued that the addition made by the AO and sustained by the ld. CIT(A) was unjustified. He submitted that the provision represented a genuine liability and that the expense related to the current year. He prayed that the disallowance be deleted in full because the provision was legitimate and allowable under section 37 of the Act.

36. On the other hand, the learned DR before us vehemently supported the order of the authorities below.

37. We have heard the rival contentions of both the parties and perused the materials placed on record. The issue before us relates to the disallowance of provision for expenses amounting to ₹1,08,63,280/- under section 37(1) of the Act.

37.1 The AO disallowed the provision mainly on the ground that the expenses were not actually incurred during the relevant previous year. According to the AO, a mere provision does not qualify for deduction unless the expenditure is actually paid or incurred. The learned CIT(A) confirmed the disallowance by holding that the provisions represented unascertained liabilities and therefore, the same were not allowable under section 37(1) of the Act.

37.2 At the outset, we note that the assessee is following the mercantile system of accounting. Under this system, income and expenditure are recognised on accrual basis and not on payment basis. This position is well recognised under section 145 of the Act. Therefore,

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the real test is not whether the payment was made during the year, but whether the liability had crystallised during the year.

37.3 In the present case, the assessee explained that the provision for pest control expenses and reimbursable billable expenses was created because the services were already received during the year, but the invoices were not received before the year end. This explanation has not been disputed by the AO. There is no finding by the AO that the services were not rendered or that the provision was created on an ad hoc or arbitrary basis.

37.4 It is also evident from the records that the invoices relating to these services were raised in the subsequent financial year. This fact supports the contention of the assessee that the liability had arisen during the relevant year, though the exact amount was finalised later. The provision was thus made to correctly reflect the expenditure pertaining to the year under consideration.

37.5 The law on this issue is well settled. An expenditure is allowable when the liability has accrued and is reasonably ascertainable, even if the actual payment is to be made in a future year. The Hon'ble Supreme Court in the case of *Bharat Earth Movers v. CIT reported in 245 ITR 428* has clearly held that a liability which has definitely arisen during the accounting year is deductible, even if it is to be discharged at a later date. The relevant observation of the Hon'ble Supreme court reads as under:

> *The law is settled: if a business liability has definitely arisen in the accounting year, the deduction should be allowed although the liability may have to be quantified and discharged at a future date. What should be certain is the incurring of the liability. It should also be capable of being estimated with*

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reasonable certainty though the actual quantification may not be possible. If these requirements are satisfied, the liability is not a contingent one. The liability is in praesenti *though it will be discharged at a future date. It does not make any difference if the future date on which the liability shall have to be discharged is not certain.*

37.6 Similar principles have been reiterated by the Hon'ble Karnataka High Court in several decisions such as CIT vs. Wipro Ge Medical System Ltd in 387 ITR 77 and CGI Information System and Management Consultant Pvt Ltd vs. ITO in 455 ITR 270 etc relied upon by the learned AR.

37.7 In the present case, we find that the provision was made based on services already received. The assessee had a reasonable basis to estimate the expenditure. There is no material on record to show that the provision was excessive or fictitious. The disallowance has been made only on the ground that the expenses were not "actually incurred", which is not the correct test under the mercantile system of accounting. The learned CIT(A) has also observed that the assessee failed to substantiate its claim. However, from the record, it is clear that the assessee had furnished explanations during assessment proceedings and had also demonstrated that the invoices were received in the subsequent year. In our view, the liability was not contingent or uncertain. It was a present obligation arising from past events. Therefore, we hold that the provision for pest control expenses and reimbursable billable expenses represents an ascertained liability which had crystallised during the relevant previous year. Such provision is allowable as a deduction under section 37(1) of the Act.

37.8 In view of the above discussion, we find that the disallowance of ₹1,08,63,280 made by the AO and confirmed by the learned CIT(A) is

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not justified. Accordingly, we hereby set aside the finding of the learned CIT(A) and direct the AO to be delete the addition made by him. Hence, the ground of appeal raised by the assessee is hereby allowed.

38. In the result appeal of the assessee is hereby allowed.

39. In the combined result all three appeal of the assessee are hereby allowed.

Order pronounced in court on 18th day of December, 2025

Sd/-	Sd/-
(KESHAV DUBEY)	**(WASEEM AHMED)**
Judicial Member	Accountant Member

Bangalore
Dated, 18th December**,** 2025
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore

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1.श्रुतलेख की तारीख.....
DATE OF DICTATION.....

2.तारीख, जिस पर टाइप किया हुआ मसौदे, संबंधित सदस्य के साम ने रखा गया हैं
DATE ON WHICH TYPED DRAFT IS PLACED BEFORE THE DICTATING MEMBER.....

3. तारीख जिस पर अनुमोदित मसौदे व.निजी सचिव/निजी सचिव के पास वापस आए
DATE ON WHICH THE APPROVED DRAFT COMES TO THE PS/Sr.PS.....

4. तारीख, जिसपरटाइपकियाहुआमसौदे,संबंधितसदस्य (2) केसामनेरखागयाहैं
DATE ON WHICH TYPED DRAFT IS PLACED BEFORE THE SECOND MEMBER.....

5. घोषणा के लिए आदेश संबंधित सदस्य के सामने रखने की तिथि
DATE ON WHICH THE ORDER IS PLACED BEFORE THE DICTATING MEMBER FOR PRONOUNCEMENT.....

6. आदेश नि.सचिव/व.नि.सचिव के पास वापस आने की तिथि
DATE ON WHICH THE ORDER COMES BACK TO THE PS/Sr.PS.....

7 आदेश अपलोड करने की तिथि
DATE OF UPLOADING THE ORDER ON WEBSITE.....

8. अगर अपलोड नहीं किया तो, उसका कारण
IF NOT UPLOADED, FURNISH THE REASON FOR DOING SO.....

9. बेंच लिपिक के पास फाइल जाने की तिथि
DATE ON WHICH THE FILE GOES TO THE BENCH CLERK.....

10. आदेश ज़ेरोक्स/पृष्ठांकन के लिए भेजने की तिथि
DATE ON WHICH ORDER GOES FOR XEROX &ENDORSEMENT.....

11. फाइल कार्यालय अधीक्षक के पास जाने की तिथि
DATE ON WHICH THE FILE GOES TO THE OFFICE SUPERINTENDENT.....

12. आदेश पर हस्ताक्षर के लिए फाइल सहायक रजिस्ट्रार के पास जाने की तिथि
THE DATE ON WHICH THE FILE GOES TO THE ASSISTANT REGISTRAR FOR SIGNATURE ON THE ORDER.....

13. अधिकरण आदेश के प्रेषण के लिए फाइल प्रेषण विभाग में जाने की तिथि
THE DATE ON WHICH THE FILE GOES TO DESPATCH SECTION FOR DESPATCH OF THE TRIBUNAL ORDER.....

14. आदेश की प्रेषण की तिथि
DATE OF DESPATCH OF ORDER.....