

ITAT directs to delete Disallowance of Employees' Contribution to EPF and ESI as contribution was made before due date for Filing Income Tax Return

M/s. Hebe Infrastructure Pvt. Ltd

Vs.

Assessing Officer

FACT of the CASE:

The Income Tax Appellate Tribunal (ITAT), New Delhi Bench directs to delete disallowance of employees' contribution to EPF and ESI as contribution was made before due date for filing return of income.

The Centralized Processing Centre (CPC) Bangalore, at the time of processing the return u/s 143(1) of the Act, disallowed the employees' contribution to ESI and PF. The CIT (Appeals) also sustained the disallowance.

The assessee, M/s. Hebe Infrastructure Pvt Ltd made an appeal before the Tribunal. It was submitted by the department that the amendment brought in by the Finance Act, 2021 in Sections 36(1) (va) and 43B of the Act by way of inserting Explanation 2 and Explanation 5 respectively have retrospective applicability.

The Counsel for the assessee, submitted that the amendments are prospective and are applicable for Assessment Years 2021-22. The Counsel for the assessee submitted that the contributions to PF and ESI were paid to Govt. before due dates for filing of return of income by the assessee. Thus the issue is covered by the decision of the jurisdictional High Court in the case of CIT Vs. AIMIL Ltd.

The Bench observed that "the amendment brought in by Finance Act, 2021 is effective from 1.04.2021 and no disallowance is called for, on belated payment of employees' contribution to ESI and PF in case the assessee deposited the said contribution before due date for filing of return of income under Income Tax Act".

Order:

The Assessing Officer/CPC is directed to delete the disallowance of employees' contribution to EPF and ESI in this case as the contribution was remitted before the due date for filing of return of income."