

आयकर अपीलीय अधिकरण "ए" न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.820/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Myunghwa Automotive India P. Ltd. No.112, Sidativakkam Village, Kanchipuram-631 560.	बनाम/ Vs.	The ACIT, Corporate Circle-4(1), Chennai.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AAFCEM-2148-H		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Ms. Divya Sukumar (FCA)- Ld. AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri ARV Sreenivasan – (Addl. CIT)- Ld. DR

सुनवाईकी तारीख/ Date of Hearing	:	26-10-2022
घोषणाकी तारीख / Date of Pronouncement	:	02-11-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member):

1. In this appeal for Assessment Year (AY) 2017-18, the sole grievance of the assessee is confirmation of disallowance of Employees' Contribution to PF / ESI in terms of Sec.43B r.w.s. 36(1)(va) as well as Sec. 2(24)(x). This issue was hitherto being decided by us in assessee's favor, inter-alia, by relying upon the decision of Hon'ble High Court of Madras in **CIT v. Industrial Security & Intelligence India (P.) Ltd. (TCA No. 585 of 2015, dated 24-7-2015)**. However, now this issue has

been decided by Hon'ble Supreme Court in favor of revenue in its recent decision in bunch of appeals titled as **Checkmate Services P. Ltd. Vs CIT (Civil Appeal No.2833 of 2016 dated 12.10.2022)**. It is admitted position that this decision applies to the facts of case before us. In the above background, the appeal is disposed-off as under.

2. The assessee's return was scrutinized u/s 143(3) on 16.12.2019. The Ld. AO made disallowance u/s 36(1)(va) for Rs.8.55 Lacs since the employees' contribution to various welfare funds like ESI & PF were remitted beyond due dates as prescribed in respective acts. The Ld. CIT(A) relied on the amendment made by Finance Act, 2021 to confirm the disallowance. Aggrieved, the assessee is in further appeal before us.

3. Respectfully following the binding decision of Hon'ble Supreme Court as cited above, the stand of Ld. CIT(A) stand confirmed. The appeal stands dismissed.

Order pronounced on 02nd November, 2022.

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 02-11-2022
EDN/-

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF