

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "A" BENCH: NEW DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1658/Del/2021

[Assessment Year : 2018-19]

BT Data and Surveying Services India Pvt.Ltd., Level-2, Elegance Tower, Jasola District Centre, Old Mathura Road, New Delhi-110024. PAN-AAFCB7229Q	vs	ITO, Circle Int. Tax-4(2), Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Kanav Bali, Sr.DR	
Date of Hearing	03.01.2023	
Date of Pronouncement	07.02.2023	

ORDER

PER PRADIP KUMAR KEDIA, AM :

The captioned appeal has been filed by the assessee against the order of Ld. CIT(A), National Faceless Appeal Centre ("NFAC"), Delhi dated 22.09.2021 arising from intimation dated 16.10.2019 passed u/s 143(1) of the Income Tax Act, 1961 ("the Act") concerning assessment year 2018-19.

2. As per grounds of appeal, the assessee has challenged the disallowance of employees contribution to Provident Fund/ESIC u/s 36(i)(va) r.w.s. 43B of the Act. When the matter was called for hearing, none appeared for the assessee. It was seen that several opportunities have been given in the past for compliance. However, none appeared on behalf of the assessee. Under these circumstances, we are constraint to proceed *ex-parte* in the absence of the assessee.

3. Ld.Sr.DR for the Revenue on its part, contended that Central Processing Centre (“CPC”) has made additions of Rs.3,13,070/- to the returned income of the assessee on account of late deposit of employees contribution to Provident Fund/ESIC will process the return of income. In this regard, the action of the Revenue in making disallowance towards late deposit of employees contribution to Provident Fund/ESIC was supported by the judgement rendered in the case of *Checkmate Services (P.) Ltd. vs CIT (2022) 143 taxmann.com 178 (SC)*. Ld. Sr. DR for the Revenue thus submitted that even for Assessment Years prior to Assessment Year 2021-22, belated employees contribution are to be reckoned as taxable income of the assessee u/s 2(24)(x) of the Act and the deduction u/s 36(i)(va) of the Act would not be permissible thereon in case of belated payments. Ld.Sr.DR for the Revenue further contended that the delayed deposit of employees contribution indicated in the Audit Report is sufficient for adjustment under section 143(1) of the Act, as held by the Pune Bench of the Tribunal in the case of *Cemetile Industries vs ITO TS-933-ITAT-2022 (Pune)*.

4. The issue towards taxability of belated employees contribution to Provident Fund/ESIC is no longer *res integra* in the light of the judgement of the Hon’ble Supreme Court in the case of *Checkmate Services (P.) Ltd. vs CIT* (supra). The co-ordinate Bench of the Tribunal in *Cemetile Industries vs ITO* (supra) had expressed a view that such adjustment/disallowance is also permissible in the proceedings carried out u/s 143(1) of the Act. Very recently, the Co-ordinate Bench of the Tribunal in *Savleen Kaur & Others vs ITO in ITA Nos. 2249/Del/2022 & Others for Assessment Year 2018-19 & Others* vide

order dated 09.01.2023 has also taken a similar view and upheld the action of the Revenue. In parity with the view taken by Co-ordinate Benches, we do not see any merit in the appeal of the assessee. We thus, do not see any warrant to any reason to interfere with the order of Ld.CIT(A).

5. In the result, the appeal of the assessee is dismissed *ex-parte*.

Order pronounced in the open Court on 07th February, 2023.

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI