

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “B” DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A No.1048/DEL/2022  
Assessment Year 2018-19

Creative Arts Education Society, A-21/13, Naraina Industrial Area, South West Delhi, Delhi.	v.	ADIT, CPC, Bangalore.
TAN/PAN: AAAAC9245N		
(Appellant)		(Respondent)

Appellant by:	None		
Respondent by:	Shri B.S. Anand, Sr.DR		
Date of hearing:	21	02	2023
Date of pronouncement:	23	02	2023

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-XXIV, New Delhi dated 25.03.2022 arising from intimation order dated 30.12.2019 passed u/s 154 of the Income Tax Act, 1961 (“the Act”) concerning Assessment Year 2018-19.

2. As per the grounds of appeal, the assessee has challenged the disallowance of Rs.56,92634/- on account of late deposit of employees contribution towards Provident Fund/ESIC after due date as per the relevant statute despite the payment of such deposit before the due date of furnishing of return of income under Section 139(1) of the Act.

3. When the matter was called for hearing, none appeared for the assessee. The matter was accordingly proceeded *ex-parte*.

3. Ld. Sr.DR for the Revenue on its part, contended that Central Processing Centre (“CPC”) has made additions of Rs.56,92634/- to the returned income of the assessee on account of late deposit of employees contribution to Provident Fund/ESIC deferred while processing 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 deposit of employees contribution held in Trust by the employee Assessee are to be reckoned as taxable income of the assessee u/s. 2(24)(x) r.w. Section 43B 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 No.2249/Del/2022 & Others for Assessment Year 2018-19 & Others vide order dated 09.01.2023* and in *Data Glove IT Solutions Private Limited vs. ITO in ITA No.994/Del/2021 for Assessment Year 2018-19 vide order dated 15.02.2023* 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 23/02/2023.**

Sd/-  
**[CHANDRA MOHAN GARG]**  
**JUDICIAL MEMBER**  
DATED: /02/2023  
*Prabhat*

Sd/-  
**[PRADIP KUMAR KEDIA]**  
**ACCOUNTANT MEMBER**