

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'H' NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.2552/Del/2022
Assessment Year: 2018-19

Drishti Apparels, 180, Sector-6, IMT Manesar S.O. Manesar (154), Gurgaon	Vs.	DCIT, Circle-29(1), Delhi
PAN :AAAFD2361B		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Sh. Pramod Kumar, Sr. DR

Date of hearing	16.05.2023
Date of pronouncement	16.05.2023

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 05.09.2022 passed by National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2018-19.

2. When the appeal was called for hearing, none appeared on behalf of the assessee to represent the case. Even, the assessee has not filed any application seeking adjournment. Since, the notice of hearing was duly served on the assessee and the

assessee has preferred not to represent its case, we proceed to dispose of the appeal ex-parte qua the assessee after hearing learned Departmental Representative and based on materials available on record.

3. The grounds raised by the assessee in the appeal relate to disallowance of deduction claimed towards employees' contribution to Provident Fund (PF) and Employees' State Insurance (ESI).

4. Briefly the facts relating to the issue in dispute are, the assessee is a resident partnership firm. While proposing the return of income filed by the assessee for the impugned assessment year, the Centralized Processing Centre (CPC) noticed that though employees' contribution to PF and ESI have not been deposited within the due date prescribed under the relevant statutes governing such payments, in terms with section 36(i)(va) of the Income-tax Act, 1961, however, the assessee has still claimed deduction. Since, the deduction claimed by the assessee was inadmissible, while issuing intimation under section 143(1) of the Act, the CPC disallowed the deduction claimed and accordingly adjusted the income of the assessee. After receiving the intimation issued under section 143(1) of the Act, the

assessee moved application under section 154 of the Act seeking rectification of mistake in the intimation issued, insofar as, it relates to disallowance of deduction claimed towards payment of employees contribution to PF and ESI. However, the rectification application was rejected by the CPC. Challenging such orders, assessee preferred appeal before the first appellate authority. However, the disallowance was confirmed.

5. We have considered the submission of learned Departmental Representative and perused the materials on record.

6. No doubt, the disputed disallowance of Rs.21,06,720/- represents delayed payment of employees contribution to PF and ESI for the assessment year 2018-19. Admittedly, the assessee has not deposited the employees contribution to PF and ESI within the due date prescribed under the statutes governing such payments. It is the say of the assessee that such payments were made within the due date of filing of return of income under section 139(1) of the Act. Hence, deduction claimed is allowable. In our view, the aforesaid claim of the assessee is not acceptable, as, now the issue stands decided against the assessee by the Hon'ble Supreme Court in case of Checkmate Services Pvt. Ltd.

Vs CIT- I (CIVIL APPEAL No. 2833 of 2016 and Ors., dated 12th October, 2022)

5. In view of above, we do not find any merit in the grounds raised. Accordingly, grounds raised are dismissed.

6. In the result, the appeal is dismissed.

Order pronounced in the open court on 16th May, 2023

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 16th May, 2023.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi