

**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 Nos.2518 & 2519/De1/2022
Assessment Years: 2018-19 & 2019-20

M/s. Adinath Industries, 31, Rajinder Park, New Delhi	Vs.	Income Tax Officer, Ward-50(1), New Delhi
PAN :AAEFA6033D		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Ms. Sapna Bhatia, CIT(DR)

Date of hearing	16.05.2023
Date of pronouncement	16.05.2023

ORDER

PER SAKTIJIT DEY, JM:

The aforesaid appeals by the assessee arise out of two separate orders, both dated 25.08.2022, passed by the National Faceless Appeal Centre (NFAC), Delhi, pertaining to assessment years 2018-19 and 2019-20.

2. When the appeals were called for hearing, none appeared on behalf of the assessee to represent the cases. Even, the assessee has not filed any application seeking adjournment. Since, the notice of hearing was duly served on the assessee, as evidenced

by the postal acknowledgement kept on record and the assessee has preferred not to represent his case, we proceed to dispose of the appeals 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 both the appeals are identical, and the common issue arising out of such grounds relates 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 processing the returns of income filed by the assessee for the impugned assessment years, 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 deductions. Since, the deductions claimed by the assessee are inadmissible, while issuing intimations under section 143(1) of the Act, the CPC disallowed the deductions

claimed and accordingly adjusted to the income of the assessee. After receiving the intimations issued under section 143(1) of the Act, the assessee moved applications under section 154 of the Act seeking rectification of mistake in the intimations issued, insofar as, it relates to disallowance of deduction claimed towards payments of employees contribution to PF and ESI. However, the rectification applications were rejected by the CPC. Challenging such orders, assessee preferred appeals before the first appellate authority. However, the disallowances were confirmed.

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

6. No doubt, the disputed disallowances of Rs.3,63,732/- and Rs.4,08,537/- represent delayed payments of employees contribution to PF and ESI for the assessment years 2018-19 and 2019-20 respectively. 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, deductions claimed are 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 in both the appeals are dismissed.

6. In the result, both the appeals are 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