

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: RANCHI
VIRTUAL HEARING AT KOLKATA**
[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

**I.T.A. No.56/Ran/2021
Assessment Year: 2019-20**

Ajit Kumar Khan (PAN: ADLPK 7578 D)	Vs.	DCIT, CPC, Bangaluru C/o DCIT , Circle-1, Jamshedpur
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	28.02.2023
Date of Pronouncement / आदेश उद्घोषणा की तिथि	06.06.2023
For the Appellant / निर्धारिती की ओर से	Shri M. K. Choudhary, Advocate
For the Respondent / राजस्व की ओर से	Shri Pranob Kumar Koley, Sr. D.R

ORDER/ आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)- NFAC, Delhi [hereinafter referred to as ‘Ld. CIT(A)’] dated 06.09.2021 for the assessment year 2019-20.

2. Issue raised in ground nos. 1 and 2 isin respect of delayed payment of EPF & ESI which has been adjudicated by the recent verdict of the *Hon’ble Supreme Court in Chekmate Services Pvt. Ltd. Vs. CIT (2022) 143 taxmann.com 178 (SC) dated 12.10.2022* wherein it has been held that “*deduction u/s 36(1)(va) in respect of*

delayed deposit of amount collected towards employees' contribution to PF cannot be claimed when deposited within the due date of filing of return even when read with Section 43B of the Income-tax Act,1961.”Accordingly ground no. 1 & 2 raised by the assessee are dismissed.

3. Issue raised in ground no. 3 is against the confirmation of addition of Rs. 57,350/- being late fee for filing of GST return.

4. Facts in brief are that the AO has made an addition for late filing fee of GST returns whereas the Ld. CIT(A) dismissed the same stating that the same to be at par with interest u/s 201(1A) of the Act which is also not allowable and thus dismissed the appeal of the assessee.

5. After hearing the rival contentions and perusing the material on record, we find that the issue is debatable and whether the amount of late filing fee paid for GST return is allowable or not and cannot be the subject matter of addition in the intimation u/s 143(1) of the Act and cannot be added in a summery manner. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

6. In the result, appeal of the assessee is allowed.

Order is pronounced in the open court on 6th June, 2023

Sd/-

(Sanjay Garg /संजय गर्ग)
Judicial Member /न्यायिक सदस्य

Sd/-

(Rajesh Kumar / राजेश कुमार)
Accountant Member / लेखा सदस्य

Dated: 6th June, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Ajit Kumar Khan, 4/4, Aastha Vijoy Uliyan Kadma, Kadma, Jamshedpur-831005.
2. Respondent – DCIT, CPC, Bengaluru
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. PCIT- , Ranchi
5. DR, Ranchi Bench, Ranchi

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By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata