

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
Dr. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.321/PUN/2023

निर्धारण वर्ष / Assessment Year : 2019-20

Blueberry IT Solutions Consulting LLP 302, Karan Selene, Bhandarkar Road, Pune – 411004 PAN : AAQFB8146A	Vs.	The DCIT, Circle 2, Pune
Appellant		Respondent

Assessee by Shri Kishor B Phadke

Revenue by Shri Ramnath P. Murkunde

Date of hearing 06-06-2023

Date of pronouncement 12-06-2023

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for AY 2019-20 arises against the National Faceless Appeal Centre (NFAC), Delhi's DIN and order No.ITBA/NFAC/S/250/2022-23/1048291800(1), dated 28-12-2022, in proceedings 250 of the Income Tax Act, 1961, in short 'the Act'.

Heard both the parties. Case file perused.

2. The assessee raised the following substantive grounds in the instant appeal:

1. *The learned CIT(A) NFAC, Delhi erred in law and on facts in confirming the addition of Rs.22,32,650/- [i.e. Rs. 11,95,529 u/s 43B + Rs. 10,37,125 u/s 36(1)(va)] made by learned DCIT, CPC, Bengaluru on account of employees contribution of P.F and E.S.I u/s 36(1)(va).*
2. *The appellant contends that learned CIT(A) erred in law and on facts in confirming addition amounting to Rs.11,95,529 u/s 43B without appreciating that, the said disallowance was contrary to the binding judicial precedents / court rulings at the time of processing u/s 143(1).*
3. *The appellant contends that the learned CIT(A) erred in law and on facts in confirming disallowance of Rs.10,37,125 u/s 36(1)(va) without appreciating that, the appellant has already disallowed the same.*
4. *Learned I-T authorities erred in making double addition of the subject matter.*
5. *Learned I-T authorities erred in law and on facts in making disallowance u/s 143(1) of ITA 1961 on the basis of informative disclosure in tax audit report. The I-T authorities ought to have appreciated that, no any such disallowance was indicated in the Tax Audit Report.*

3. Suffice to say, there is hardly any dispute between the parties that the hon'ble apex court's recent landmark decision in *Checkmate Services (P) Ltd. vs. CIT* (2022) 143 taxmann.com 178 (SC) has settled the issue regarding the disallowance of employee's contribution to PF/ESI made u/s 36(1)(va) in Revenue's favour. Their lordships hold in their very terms that such contribution ought to be deposited in the specified account on or before the "due" date prescribed under the corresponding statute than the "due" date prescribed u/s 139(1) of the Act. We, thus, see no merit in assessee's instant sole substantive grievance.

4. Faced with the situation, Mr. Phadke next invited our attention to assessee's paper book running into 100 pages and more particularly, section 143(1) CPC's processing dated 06.05.2020. His case in light thereof that it prima facie emerges that this is an instance of double disallowance / addition regarding the above stated ESI/PF amount. The revenue is equally fair in submitting before us that the Assessing Officer will verify the instant

clinching aspect to this limited extent in consequential proceedings as per law. We ordered accordingly.

5. This assessee's appeal is partly allowed for statistical purposes in the above terms.

Order pronounced in the Open Court on 12th June, 2023.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 12th June, 2023
GCVSR

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The concerned Pr.CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "A" / DR 'A', ITAT, Pune
5. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	06-06-2023	Sr.PS
2.	Draft placed before author	07-06-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		