

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member

ITA No.248/Hyd/2023		
Assessment Year: 2020-21		
Shri Darshan Vijaysinh Bhatia, Hyderabad PAN:ABXPB8421E	Vs.	Dy. C. I. T. Circle 2(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri Santi Pavan Kumar,	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	12/06/2023	
Date of pronouncement:	13/06/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 11/03/2023 passed by the learned CIT (A)-NFAC Delhi, relating to A.Y.2020-21.

2. Addition of Rs.14,32,679/- made by the CPC on account of late payment of employees' contribution to PF & ESI which has been confirmed by the CIT (A) NFAC, is the only issue raised by the assessee in the grounds of appeal.

3. At the time of hearing, an adjournment application was filed by the learned A.R of the assessee on the ground that he is not well and therefore, requested for adjournment of hearing.

However, since the issue has now been decided by the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT vide civil appeal No.2833 of 2016 order dated 12th October 2022, the adjournment application filed by the assessee is rejected and the appeal is being taken up for hearing being a covered matter.

4. Facts of the case, in brief, are that an amount of Rs. 14,32,679/- was added by the CPC Bengaluru in the intimation u/s 143(1) on account of late payment of employees' contribution to PF & ESI as per the respective Acts.

5. Before the learned CIT (A) NFAC, the assessee relying on various decisions submitted that they made all the payments before the due date of filing of the return of income and therefore, no addition/disallowance should be made.

5.1 However, the learned CIT (A) NFAC rejecting the various explanations given by the assessee held that the amount of Employees' Contribution to PF & ESI paid by the assessee before filing of the ITR cannot be allowed as a deduction u/s 43B of the I.T. Act. He held that since the amounts were received from the Employees are deemed as income of the assessee u/s 2(24)(x) of the I.T. Act and since the same has not been deposited within the due date prescribed under the said Acts, therefore, the same is not deductible u/s 36(1)(va) of the I.T. Act. Accordingly, the appeal filed by the assessee was dismissed.

6. Aggrieved with such order of the learned CIT (A)-NFAC the assessee is in appeal before the Tribunal.

7. We have heard the learned DR and perused the record. It is an admitted fact that an amount of Rs.14,32,679/- being employees' contribution to PF and ESI has not been deposited on or before the due dates provided under the respective Acts but has been deposited before the due date of filing of the return of income. We find the issue now stands decided against the assessee by the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT (Supra) wherein the Hon'ble Supreme Court has held that if the Employees' contribution to PF & ESI are not deposited before the statutory due dates mentioned in the respective Act, the same cannot be allowed as a deduction. Since admittedly, the assessee, in the instant case, has not deposited the Employees' Contribution to PF & ESI before the statutory due dates but has deposited the same before the due date of filing of the return of income, therefore, the learned CIT (A) NFAC was fully justified in upholding the addition/disallowance made by the CPC in the intimation u/s 143(1). The grounds raised by the assessee are accordingly dismissed.

8. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the Open Court on 13th June, 2023.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
---	---

Hyderabad, dated 13th June, 2023.
Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Darshan Vijaysinh Bhatia, Prop: M/s. DVB Design Plus Engineering, Plot No.67B, Anrich Industrial Estate, Bollaram Medak Distt. Hyderabad 502325
2	Dy.CIT, Circle 2(1) Signature Towers, Hyderabad
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order