

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.334/Del./2022
(ASSESSMENT YEAR : 2019-20)**

Karl Storz Endoscopy India Pvt. Ltd., vs. JCIT, Circle 13 (1),
11th Floor, Dr. Gopal Das Bhawan, Delhi.
28, Barakhamba Road,
New Delhi 110 001.

(PAN : AZHPS3384D)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Rishabh Malhota, Advocate
REVENUE BY : Shri Waseem Arshad, CIT DR

Date of Hearing : 21.06.2023
Date of Order : 22.06.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal is preferred by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 22.12.2021 pertaining to Assessment Year 2019-20.

2. The only issue involved in this appeal is as under :-

“That on the facts and circumstances of the case and in law the Ld. CIT (A) has erred in confirming the order passed by the Ld. AO wherein it has been held that the deduction of INR 13,12,903 has been disallowed on account of late deposit of employees’ contribution to provident fund and ESI, without appreciating that the amount was duly deposited by the Appellant before filing of its return of income.”

3. We have heard both the parties and perused the material on record. We find that the issue involved i.e. late deposit of employees' contribution to PF/ESI is squarely covered by the decision of Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. (2022) 143 taxmann.com 178 wherein it has been held that if employees' contribution of provident fund and ESI paid beyond due date as specified under the relevant Act then the same has to be added back in the income of the assessee.

4. However, Id. Counsel for the assessee has tried to distinguish the aforesaid decision of Hon'ble Apex Court by ITAT, Mumbai Bench decision in the case of M/s. P.R. Packaging Service vs. ACIT in ITA No.2376/Mum/2022 order dated 07.12.2022. We find that since the issue is covered by Hon'ble Apex Court decision in favour of the Revenue, the decision of ITAT is not being dealt with in this order. Hence, the appeal of the assessee is dismissed.

5. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on this 22nd day of June, 2023.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Dated the 22nd day of June, 2023
TS

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- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.
