

- c) Non-granting of refund on account of excess payment of Dividend Distribution Tax (ground nos. 8 & 9); and,
- d) Non-granting of interest under Section 244A of the Income Tax Act, 1961 (ground no. 10)

2. At the time of hearing, assessee did not press ground nos. 6 & 7 relating to claim of credit of Dividend Distribution Tax paid by the assessee. Accordingly, the said grounds are dismissed as not pressed.

3. As regards disallowance of employees contribution to Provident Fund and ESI under Section 36(1)(va) of the Income Tax Act, 1961 (in short 'the Act'), the contention of the assessee will no longer survive in view of the decision rendered by the Hon'ble Supreme Court of India in the case of Checkmate Services Pvt. Ltd. vs CIT (Civil Appeal No. 2833/2016) dated 12.10.2022, wherein it has been held that disallowance under Section 36(1)(va) of the Act will be attracted if employees contribution is not paid within the due dates prescribed in the respective Acts. Accordingly, we dismiss the grounds raised by the assessee on this issue.

4. With regard to the claim of refund on account of excess payment of Dividend Distribution Tax, the Ld. AR submitted that the same is decided against the assessee by the order of Special Bench of Tribunal in the case of DCIT vs Total Oil India Pvt. Ltd. (ITA No. 6997/Mum/2019) dated 20.04.2023. Accordingly, following the decision rendered by the Special Bench of the Tribunal in the above said case, we dismiss the grounds raised in this issue.

5. The grounds relating to claim of refund under Section 244A of the Act would also fail, since we have dismissed the grounds relating to refund of excess payment of Dividend Distribution Tax in the preceding paragraph.

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

Order pronounced in the open court on 26th June, 2023.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai, Date : 26th June, 2023

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Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "G" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai