

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 750/KOL/2022
Assessment Year: 2018-2019**

***Raj Trimurti Infra Projects Pvt. Limited,.....Appellant
47J, Ground Floor,
Selimpur Lane, Kolkata-700031
[PAN: AAGCM6646R]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-2(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

Shri Sunil Surana, F.C.A., appeared on behalf of the assessee

Smt. Ranu Biswas, Addl. CIT, Sr. D.R., appeared on behalf of the Revenue

Date of concluding the hearing : July 05, 2023

Date of pronouncing the order : July 06, 2023

O R D E R

Per Shri Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 24th November, 2022 passed for A.Y. 2018-19.

2. The solitary grievance of the assessee is that the ld. CIT(Appeals) has erred in confirming the action of the ld. Assessing Officer vide which an addition of Rs.33,88,284/- was made by him. According to the information available on the record, the assessee failed to deposit P.F. and ESI contributions of the employees to the respective Act within the due date provided under P.F. and ESI Acts. The ld. Assessing Officer made the disallowance with the help of section 36(1)(va).

3. Against this order of the ld. Assessing Officer, the assessee carried the matter in appeal before the ld. CIT(Appeals). The ld. 1st Appellate Authority has observed that the issue in dispute is covered by the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Limited -vs.- CIT (2022) 143 taxman.com 178 (SC) rendered on 12.10.2022. The Hon'ble Supreme Court has held that employees contributions deducted by the employer for making payment towards P.F. & ESI Act were not deposited before the due date provided under those Acts, then assessee will not be eligible to claim deduction of such amounts. The assessee failed to deposit those contributions within the due date and the ld. 1st Appellate Authority has rightly upheld the action of the ld. Assessing Officer. We do not find any merit in this appeal of the assessee, it is dismissed.

4. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on July 6, 2023.

**Sd/-
(Rajesh Kumar)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President(KZ)**

Kolkata, the 6th day of July, 2023

*Copies to : (1) Raj Trimurti Infra Projects Pvt. Limited,
47J, Ground Floor,
Selimpur Lane, Kolkata-700031*

*(2) Income Tax Officer,
Ward-2(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi*

*(4) Commissioner of Income Tax ,
(5) The Departmental Representative
(6) Guard File*

TRUE COPY

By order

*Assistant Registrar
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.