

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 253/Kol/2023
Assessment Year: 2020-21

Ratul Dutta 24, AC Sarkar Road Kolkata - 700076 [PAN : AKJPD8614Q]	Vs	ADIT - CPC, Bangalore
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Swati Baid, FCA
Revenue by :	Mr/Ms S. Datta, CIT D/R

सुनवाई की तारीख/**Date of Hearing** : 05/07/2023
घोषणा की तारीख /**Date of Pronouncement**: 14/07/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the "Id. CIT(A)") dt. 06/02/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2020-21.

2. The sole grievance of the assessee is that the Id. CIT(A) erred in confirming the disallowance made u/s 43B of the Act at Rs. 13,26,510/- on account of employees' contribution to PF & ESI.

3. We have heard rival contentions and perused the material placed before us. It is an admitted fact that the alleged sum was paid after the due date prescribed under the relevant Act. The Hon'ble Supreme Court in the case of *Chekmate Services Pvt. Ltd. Vs. CIT* (2022) 143 *taxmann.com* 178 (SC) has held that "deduction u/s 36(1)(va) in respect of delayed deposit of amount collected towards employees'

contribution to PF cannot be claimed when deposited within the due date of filing of return even when read with Section 43B of the Income-tax Act,1961.” Accordingly, the sum is not allowable u/s 36(1)(va) of the Act and is deemed to be income u/s 2(24)(x) of the Act. Accordingly, we dismiss all the effective grounds raised by the assessee.

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

Order pronounced in the Court on 14th July, 2023 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 14/07/2023

SCS

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata