

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “B”: NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 2217 /DEL/2022
[Assessment Year: 2018-19]**

M/s Comped Pharmaceuticals Pvt. Ltd., C/o Shiv Kumar Gupta, 377/A FF CA House, Near IMA Hall, Bachcha Park, Meerut-250002 PAN- AAACC6076B	<u>Vs</u>	ACIT, 1(1)(1), Meerut.
APPELLANT		RESPONDENT
Assessee represented by	Sh.Sparsh Gupta, CA , CA	
Department represented by	Ms. Parmita M. Biswas, CIT(DR)	
Date of hearing	08.06.2023	
Date of pronouncement	25.07.2023	

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has come in appeal against the Assessment order dated 28.07.2022 U/s 143(3) r.w.s 144B r.w.s 144C(13) of the Income-tax Act, 1961 (hereinafter referred as the “Act”), passed by the National Faceless Assessment Centre (hereinafter referred in short as “Ld. AO”).

2. Heard and perused the record.
3. After hearing learned AR and learned DR it transpires that as regard to ground no. 3 wherein assessee has challenged the disallowance on account delay in

deposit of EPF/ESI contribution, the issue now stands decided in favour of the Revenue by the Hon'ble Supreme Court in a batch of appeals with Checkmate Services P. Ltd. Vs. CIT (Civil Appeal No. 2833 of 2016) dated October 12,2022.

The ground no. 2 is decided against the assessee

4. The other issue arises arise out of the fact that the assessee while filing its ITR deducted the share of profit from partnership firm from the income u/h PGBP, however erred in showing the same as "Exempt income" in Schedule-EI. The assessee had received Rs. 57,35,233 of share of Vetbesta firm which is exempt in the hands of the partner u/s 10(2A) and is reflected in the "Other Income" portion of P&L account of the assessee. The case was selected in scrutiny assessment and Ld. AO passed draft order with a transfer pricing issue. The assessee filed the objections against the TP issue and this issue was also raised in front of DRP. The TP decision of DRP was accepted by the assessee. However, for the other issues, the Ld. AO was directed by panel to verify. The assessee submitted the replies and however without considering the submission of the assessee, the Ld. AO mentioned that due to lack of clarity on how the income was included in the P&L account of the assessee. The same was added without providing an opportunity of being heard to justify the case, if it were not clear to the Ld. AO.

5. The Bench is of the considered view that learned AO has fallen in error in not examining the directions of learned DRP in para 3.1.13, wherein the AO was

directed to verify the reported error. However, without giving any opportunity of hearing to the assessee with ambiguous findings the addition made by CPC was confirmed by the AO. The issue is required to be re-examined and accordingly restored to the file of learned AO to give an opportunity of hearing to the assessee and comply with the direction of learned DRP.

6. Consequently, the appeal is partly allowed for statistical purposes.

Order pronounced in open court on 25.07.2023.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI