



॥ आयकर अपीलीय न्यायाधिकरण, पुणे 'एसएमसी' न्यायपीठ, पुणे में ॥



**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH, PUNE  
BEFORE HON'BLE SHRI S. S. GODARA, JUDICIAL MEMBER**

**AND**

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**आयकर अपील सं. / ITA No. 834/PUN/2023**

**निर्धारण वर्ष / Assessment Year : 2018-19**

Meenal Hemanshu Nandola  
286-A, Shree Ganesh Chambers,  
Ganesh Peth, Pune  
PAN: AMZPN6419P

..... अपीलार्थी / *Appellant*

**बनाम / V/s**

Income Tax Officer,  
Ward-5(2), Pune

..... प्रत्यर्थी / *Respondent*

**द्वारा / Appearances**

Assessee by : Ms Kimaya for Kishor Phadke

Revenue by : Shri R. Y. Balawade

सुनवाई की तारीख / Date of conclusive Hearing : 08/08/2023

घोषणा की तारीख / Date of Pronouncement : 01/09/2023

**आदेश / ORDER**

**PER G. D. PADMAHSHALI, AM;**

The impugned DIN & order No. ITBA/NFAC/S/250/2021-22/1037188731(1) dt. 24/11/2021 of National Faceless Appeal Centre, Delhi [for short 'NFAC'] passed u/s 250 of the Income-tax Act, 1961 [for short 'the Act'], by the present appeal is challenged by the assessee.



2. Without rearticulating grounds of appeal it is apt to voice that, the substantive ground of present appeal is directed against disallowance made u/s 36(1)(va) on the basis of information reported in tax audit report [for short 'TAR'] filed with return of income [for short ITR].

3. Briefly stated facts of the case are; the appellant is an individual who filed her ITR for AY 2018-19 on 21/10/2018 declaring total income of ₹4,05,420/-. The return was summarily processed u/s 143(1) of the Act determining total income at ₹22,89,710/- by the DCIT, CPC, Bengaluru by disallowing an amount of ₹18,84,295/- u/s 36(1)(va) of the Act on account of delayed remittance of employee's Contribution towards PF/ESIC on the basis of information reported in the TAR.

4. Aggrieved assessee unsuccessfully contested the aforestated disallowance before first appellate authority.

5. By present appeal the assessee challenged the action of first appellate authority for not considering her submission with respect to erroneous details of payment crept in the tax audit report filed alongwith the return.



6. After considering the rival submission, vehement arguments; perused the material placed on record in the light of rule 18 of the ITAT Rules, 1963.

7. We note that rival parties have no dispute over legal position as laid down in landmark judgement of the Hon'ble Supreme Court of India in '*Checkmate Services P. Ltd. & Ors. Vs CIT & Ors*' reported in 448 ITR 518, wherein the Hon'ble Lordship have categorically held that, where any remittance of employees contribution to specified fund is made after the prescribed due date, disallowance of such remission u/s 36(1)(va) of the Act is inevitable. The appellant without disputing the applicability has set-up this case contesting that the details of remittance reported in TAR are incorrect and actual date of remission can be re-verified in the evince of payment challan, PF/ESI office receipt etc. We further note that, while dismissing aforestated contention, the Ld. NFAC called upon the assessee to furnish revised return and revised audit report in support of her claim of having deposited within the prescribed due date, which remained to be complied or filed by the appellant assessee.



8. In the light of aforesaid factual position, the first appellate proceedings were culminated without there being any evidence as articulated in para 5.1.2 of the impugned order. For the reason we deem it fit to remand this limited issue of verification of claim of the assessee in the light of evidential material in the form of payment challans and corrected TAR etc. and deal with the same in accordance with the provisions of 36(1)(va) of the Act and in the light of decision rendered by Hon'ble Apex Court in '*Checkmate Services P. Ltd. & Ors*' (Supra).

**9. In result, the appeal is ALLOWED FOR STATISTICAL PURPOSE.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Friday 01<sup>st</sup> day of September, 2023.

-S/d -

**S. S. GODARA**

**JUDICIAL MEMBER**

-S/d-

**G. D. PADMAHSHALI**

**ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 01st day of September, 2023.

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

- |                                    |                                   |
|------------------------------------|-----------------------------------|
| 1. अपीलार्थी / The Appellant.      | 2. प्रत्यर्थी / The Respondent.   |
| 3. The Pr. CIT -1 (MH-India)       | 4. The CIT(A)-NFAC, Delhi (India) |
| 5. DR, ITAT, Pune SMC Bench', Pune | 6. गार्डफ़ाइल / Guard File.       |

आदेशानुसार / By Order  
वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.