

IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH, JABALPUR  
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER &  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 28/Jab/2023

(A.Y: 2018-19)

Arihant Automobiles 984, Wright Town, Jabalpur-482002, Madhya Pradesh.	Vs.	ITO, Ward-2(2) Jabalpur Madhya Pradesh.
PAN/GIR No. : AAHFA2701P		
Appellant	..	Respondent

Assessee by :	None
Respondent by :	Shri. Shiv Kumar. Sr DR

Date of Hearing	20.09.2023
Date of Pronouncement	.09.2023

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC), Delhi / CIT(A) passed u/s 143(1) and 250 of the Act. The assessee has raised the following grounds of appeal:

- 1. The Learned CIT erred in relating disallowance of employees contribution of Rs. 26545/- by the ITO though the matter referred to the period before the judgement of supreme court.*

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*2.The learned CIT erred in retaining disallowance of Rs. 70,000/- relating to payment of bonus Rs. 30,000/- & leave encashment of Rs. 40,000/- although that was deposited before filling of Income Tax return.*

*(3) The appellate craves leave to amend, alter or delete any of the above ground of appeal*

2. The brief facts of the case are that, the assessee is engaged in the business of automobiles. The assessee has filed the return of income for the A.Y 2018-19 disclosing a total income of Rs.2,29,400/- and the return of income was processed with disallowance u/s 36(1)(va) of the Act of Rs.26,545/- being employees contribution towards PF not paid within the due date of respective Act and Rs disallowance of leave encashment and bonus of Rs.70,000/- and the total income was determined at Rs 3,25,958/- U/sec 143(1) of the Act.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the submissions of the assessee, grounds of appeal, findings of the AO and relied on the decision of the Hon'ble Supreme Court in the case of Checkmate Service Pvt Ltd Vs CIT-1 in Civil Appeal No. 2833 of 2016 dated 12 -10- 2022 and sustained the disallowance of PF and similarly confirmed the action of the A.O.in disallowance of leave encashment

and bonus of Rs.70,000/- as no evidence of payment was filed and has dismissed the assessee appeal, Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Honble Tribunal.

4. At the time of hearing, none appeared on behalf of the assessee and the Ld. DR supported the order of the CIT(A).

5. We heard the Ld. DR submissions and perused the material on record. The disputed issues challenged by the assessee that the CIT(A) has erred in confirming the addition u/s 36(1)(va) of the Act in respect of delayed payment of employees contribution towards PF. We found the CIT(A) has considered the decision of Hon'ble Supreme Court in the case of Checkmate Service Pvt Ltd and CIT, in Civil Appeal No. 2833 of 2016 dated 12 Oct 2022 and has dealt on the facts at Para 4 of the order and confirmed the disallowance and we do not find infirmity in the order of the CIT(A) on this disputed issue and uphold the same and dismiss the ground of appeal. On the second disputed issue of disallowance of leave encashment and bonus of Rs.70,000/-.The assessee has submitted the copy of the cash book, in particular the date of payment of the said amount on 25-09-2018 before due date of filling of return

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of income with the appellate authorities on 13-04-2022 in reply to notice dated 5-04-2022. But these facts are not referred in the CIT(A). Hence, for limited purpose we restore the disputed issue along with the evidences to the file of the Assessing Officer to verify and examine the facts and decide on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. Accordingly, we allow this ground of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on .09.2023

(OM PRAKASH KANT)  
**ACCOUNTANT MEMBER**

(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Jabalpur Dated .09.2023

KRK, PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

आदेशानुसार / BY ORDER,

सत्यापित प्रति // True Copy //

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( Asst. Registrar )  
ITAT, Jabalpur