

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)

ITA No. 146/MUM/2022
Assessment Year: 2018-19

M/s Edocs Solutions Ltd.,
Transmission House, 1st floor,
Plot. No. 6/19, Compound No.
82, Marol Co-op. Indl. Estate,
Near Marol Bhavan, M.V.
Road, Andheri (East),
Mumbai-400059.

PAN No. AAECE 3948 A

Appellant

Vs.

DCIT, (CPC),
Bangalore Post Bag No. 2,
Electronic City, Post Office,
Bangalore-560100.

Respondent

Assessee by : None
Revenue by : Mr. P.D. Chogule, CIT-DR

Date of Hearing : 05/10/2023
Date of pronouncement : 10/10/2023

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 30.12.2021 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2018-19, raising the sole ground reproduced as under:

- 1. The learned CIT(A) erred on the facts and in the circumstances of the case and in law in confirming the disallowance u/s 36(1)(va) of the act of Rs.35,62,677/- being late deposit of*



Employees share towards Provident Fund & ESI Contribution without appreciating that the amounts had been deposited before the due date of filing the tax return.

2. The material facts for adjudication of the controversy in brief are that while processing the return of income filed by the assessee u/s 143(1) of the Income-tax Act, 1961 (in short 'the Act'), the Central Processing Centre (CPC) made adjustment for the claim of the assessee of employee's contribution to PF/ESI amounting to Rs.35,62,677/- to the returned income on the ground that same was deposited after the due date prescribed under the relevant Acts and same was not allowable u/s 36(1)(va) of the Act. In view of the adjustment made by the CPC, the assessee preferred appeal before the Ld. CIT(A) but could not succeed. The Ld. CIT(A) upheld the disallowance observing as under:

"7. It is therefore, held that the disallowance of Rs. 35,62,677/- made u/s. 143(1) by CPC on account of appellant's failure to pay the employee's contribution of PF/ESI within the prescribed due dates as per section 36(1)(va) is strictly in accordance with law and clearly comes under the prima facie adjustments as envisaged u/s. 143(1)(a)(iv). The order u/s. 143(1) issued by CPC is therefore, confirmed fully. Appellant's Ground No. 1, 2 and 3 of appeal on the issue fail and are dismissed."

3. Despite notifying neither anyone attended on behalf of the assessee nor any adjournment was filed before us, therefore, we were of the opinion that assessee was not interested in prosecuting the appeal. Accordingly, the appeal was heard ex-parte qua the assessee after hearing the Ld. Departmental Representative (DR).



4. We have heard the Ld. DR and perused the relevant material available on record. We find that in view of the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. in Civil Appeal No. 2833 of 2016 dated 12.10.2022 any share of employee's contribution to PF/ESI deposited after the due date prescribed under the relevant Acts is not allowable as claim u/s 36(1)(va) of the Act and therefore, the claim being in the nature of incorrect claim, same is liable for adjustment under the provision of section 143(1)(a)(ii) of the Act . Thus, the Ld. CIT(A) is justified in upholding the prima facie adjustment made by the CPC while processing the return of income. The sole ground of appeal of the assessee is accordingly dismissed.

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

Order pronounced in the open Court on 10/10/2023.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;
Dated:10/10/2023
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai