

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "B" BENCH: NEW DELHI**
**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No.90/Del/2022
[Assessment Year : 2018-19]

M/s. Channelplay Ltd., Plot No.800, Udhyog Vihar, Gurgaon-122016. PAN-AADCC0600L	vs	Asst.DIT, Central Processing Centre, Bangalore-560500.
APPELLANT		RESPONDENT
Appellant by	Shri Suyash Sinha, Adv.	
Respondent by	Shri Vivek Kumar Upadhyay, Sr.DR	
Date of Hearing	13.11.2023	
Date of Pronouncement	16.11.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee is directed against the order passed by Ld.CIT(A), National Faceless Appeal Centre ("NFAC"), Delhi dated 01.12.2021 for the assessment year 2018-19.

2. The assessee has raised following grounds of appeal:-

1. *"That on the facts and circumstances of the case and in law, the adjustment made by the CPC vide order under section 143(1) of the Income-tax Act, 1961 ("Act") dated 06.07.2020 and upheld by the CIT(A) vide his order dated 01.12.2021, assessing the total income of the Appellant at Rs.7,11,99,870/-, as against the returned income of Rs. 6,03,54,900/-, is bad in law.*
- 2.1. *That on the facts and circumstances of the case and in law, the Ld. CPC and CIT(A) of the National Faceless Appeal Center ("NFAC") erred in not granting deduction under section 36(1)(va) of the Act in respect of employees' contribution towards Employees State Insurance ("ESI") amounting to Rs. 14,59,747 and*

Employees Provident Fund ("PF) amounting to Rs.79,04,865 aggregating to Rs. 93,64,612 which were deposited after the prescribed due date in the relevant acts but prior to the due date for filing of original return of income of the Appellant under Section 139(1) of the Act.

2.2. *That on facts and circumstances of the case and in law, the Ld. CPC and CIT(A) of the NFAC erred in denying the deduction of Rs. 93,64,612 by holding that amendments made to section 36(1)(va) and 43B of the Act vide Finance. Act 2021 were clarificatory in nature and could be applied retroactively.*

3. *That on the facts and circumstances of the case and in law, the CPC and the CIT(A) of the NFAC erred in taxing the interest on income-tax refunds pertaining to AY 2012-13 and AY 2013-14 amounting to Rs. 14,80,359/- received during FY 2018-19 (relevant to AY 2019-20) in the subject year on accrual basis as against receipt basis as prescribed under ICDS-IV."*

3. Facts giving rise to the present appeal are that the assessee is engaged in the business of Sales Force Automation Shopper Marketing and Channel Management Company in India. The assessee had filed its return of income for AY 2018-19 on 31.10.2018, declaring income of INR 603,54,900/- under the normal provision of the Income Tax Act, 1961 ("the Act"). While processing the return of income, the Assessing Officer ("AO") computed the income u/s 143(1) of the Act at INR 711,99,870/- and made addition on account of contribution of provision of Provident Fund and ESI of INR 93,64,612/- and interest on refund of Rs.14,80,359/-.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, sustained the addition and dismissed the appeal of the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. **Ground No.1** raised by the assessee is general in nature, needs no separate adjudication hence, dismissed.

7. Apropos to **Ground Nos.2.1 and 2.2**, Ld. Counsel for the assessee fairly conceded that the issue has been decided by the judgement of Hon'ble Supreme Court in the case of ***Checkmate Services Pvt.Ltd. vs CIT 143 taxmann.com 178 (SC) dated 12.10.2022.*** Therefore, respectfully following the judgement of Hon'ble Supreme Court in the case of *Checkmate Services Pvt.Ltd. vs CIT* (supra), Ground Nos.2.1 & 2.2 raised by the assessee are dismissed.

8. **Ground No.3** raised by the assessee is against the addition in respect of interest on income tax refund.

9. Ld. Counsel for the assessee submitted that the authorities below have failed to appreciate the fact in right perspective. He contended that the assessee has offered this amount in the year in which interest on refund was received. It is further contended that claim was made in accordance with ICDS-IV as issued by the CBDT. He drew our attention to Clause [H] which reads that *"Interest on income tax refund accrued in earlier year (whether booked in accounts in earlier year or not) but received in current year should be offered to tax as income of current FY on receipt basis"*.

10. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below. He contended that the

assessee is following Mercantile System of Accounting. Therefore, Ld.CIT(A) was justified in disallowing the claim of the assessee.

11. We have heard Ld. Authorized Representatives of the parties and perused the material available on record. We find that Ld.CIT(A) in para 5 of his order, has decided the issue by observing as under:-

5. *“The second issue involved is not applying provisions of Income Computation and Disclosure Standard IV relating to revenue recognition which provides for taxability of interest on income tax refund on actual receipt basis. ICDS 4 Revenue Recognition adjustment of Rs. 14,80,359/- being amount of interest on income tax refund.*

In this connection, it is considered necessary to examine the method of accounting of that the assessee regularly follows. The assessee, being a company following mercantile system of accounting, it is a statutory right of the assessee to get refund of the excess tax paid and such refund shall be made to the assessee even without a specific claim. As per Section 244(A) of the I.T. Act, 1961, the assessee is entitled to get interest on the refund amount which is payable to the assessee. As and when it gets accrued, the assessee who follows mercantile system of accounting needs to offer it for taxation. Hence, ground of appeal stands dismissed and addition of Assessing Officer is confirmed.”

11.1. However, as per the Application Guide-ICDS-IV (Revised), Clause [H] makes it clear that interest on income tax refund accrued in earlier years is required to be offered on receipt basis. Therefore, the authorities below were not justified in disallowing the claim of the assessee. The AO would verify whether the assessee has offered this amount for tax in the year of receipt. If the AO finds that the assessee has offered the amount, he would delete the impugned addition. Accordingly, Ground No.3 raised by the assessee is allowed in terms indicated herein above.

12. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 16th November, 2023.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI