

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

ITA No. 49 & 60/Jab/2023
(A.Y: 2018-19 & 2019-20)

Motor Mitra, 117, Napier Town, Jabalpur-482002, Madhya Pradesh.	Vs.	ACIT, Circle-1(1) Jabalpur, Madhya Pradesh.
PAN/GIR No. : JBPM01104F		
Appellant	..	Respondent

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

Date of Hearing	21.09.2023
Date of Pronouncement	09.10.2023

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

These are the two appeals filed by the assessee against the separate orders of the National Faceless Appeal Centre (NFAC) / CIT(A) passed u/sec 143(1) and 250 of the Act. The assessee has raised grounds of appeal challenging the order of the CIT(A) confirming the disallowance of employees contribution of PF & ESIC in the intimation U/sec143(1) of the Act.

2. Since the issues involved in these appeals are similar and identical, hence they are clubbed and heard together and consolidated order is passed. For the sake convenience, we shall take up ITA No.60/Jab/2023 for the A.Y 2019-20 as a lead case and facts narrated.

3. The brief facts of the case are that, the assessee has filed the return of income for the A.Y 2019-20 disclosing a total income of Rs.22,69,540/- and the return of income was processed with disallowance u/s 36(1)(va) of the Act of Rs.2,21,366/-being employees contribution towards PF&ESIC not paid within the due date of respective Act and disallowance of expenses of Rs.5,88,790/- invoking provisions U/sec40(a)(ib) of the Act for non deduction of TDS and the total income was determined at Rs30,79,700/- U/sec 143(1) of the Act dated2-07-2020.

4. 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&ESIC and granted relief

in other grounds of appeal and partly allowed the assessee appeal, Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Honble Tribunal.

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

6. 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 &ESIC. We find 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 Page 7 Para 6.5 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 grounds of appeal of the assessee.

ITA 49/Jab/2023, A.Y 2018-19

7.As the facts and circumstances in this appeal is identical to ITA No 60/Jab/2023, A.Y 2019-20 on the disputed issue and the decision rendered in the above

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paragraphs will apply *mutatis mutandis* to this appeal also. Accordingly, the grounds of appeal of the assessee are dismissed.

8. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced under Rule 34(4) of the Income Tax Appellate Tribunal Rules, 1963.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai.Dated 09.10.2023

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//

1.

(Asst. Registrar)
ITAT, Jabalpur