

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.1002/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2021-22)**

<b>M/s. ABT Limited</b> 180, Race Course Road, Coimbatore-641 018.	<b>बनम</b> / Vs.	<b>DCIT</b> Corporate Circle-1, Coimbatore.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. <b>AABCA-8398-K</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Shri I.Dinesh (Advocate)-Ld.AR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri Hema Bhupal (JCIT)-Ld. Sr. DR

सुनवाईकी तारीख/ <b>Date of Hearing</b>	:	30-11-2023
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	05-12-2023

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. The sole grievance of the assessee in captioned appeal is disallowance of late payment of PF / ESI dues for Rs.44.17 Lacs u/s 36(1)(va). The period of delay has been tabulated in impugned order at para 6.2 as under: -

<b>Nature of Fund</b>	<b>Actual Due Date</b>	<b>Date of Payment</b>	<b>of Delayed Days</b>	<b>Amount</b>
Provident Fund	15-07-2020	14-08-2020	30 Days	12,13,140/-
Provident Fund	15-08-2020	14-09-2020	30 Days	12,75,724/-
Provident Fund	15-10-2020	19-10-2020	4 Days	19,27,947/-
			<b>Total</b>	<b>44,17,081/-</b>

2. During appellate proceedings, the assessee relied on EPFO Circular No.1112 dated 15.05.2020 which stated that delay in deposit of contribution during the period of Covid-19 lockdown, could not be attributed to any culpable state of mind of the employer and therefore, would not call for penal damages for delay in deposit of dues. However, Ld. CIT(A) held that granting relief from penal damages on delayed payment can by no stretch of imagination be equated with extension of due date for payment of EPF. Accordingly, the disallowance was upheld.

3. Before us, Ld. AR relied on the same circular and pleaded that there was minor delay due to lockdown situation arising out of COVID-19 pandemic. To support the submissions, Ld. AR referred to the decision of Kolkata bench of Tribunal in Steel House vs. DCIT (ITA No.766/Kol/2023 dated 17-10-2023) wherein similar disallowance was deleted for short delay of 3 days and 1 days respectively. The Ld. Sr. DR submitted that the issue is covered against the assessee by the decision of Hon'ble Apex Court.

4. It is undisputed fact that the impugned issue stood against the assessee by the latest decision of Hon'ble Supreme Court in bunch of appeals titled as **Checkmate Services P. Ltd. Vs CIT (143 Taxmann.com 178)**. So far as the cited circular is concerned, the same merely exonerate the assessee from penal damages and nothing more. The decision of Hon'ble Apex Court would certainly take precedence over the cited decision of Kolkata Tribunal. Respectfully following the ratio laid down by Hon'ble Apex Court, we confirm the impugned order.

5. The appeal stand dismissed.

*Order pronounced on 05<sup>th</sup> December, 2023.*

**Sd/-**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 05-12-2023  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF