

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

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SANDEEP SINGH KARHAIL (JUDICIAL MEMBER)

ITA No.156/MUM/2022
Assessment Year: 2019-20

M/s. Smiths Medical India
Pvt. Ltd.,
508, 509, 5th Floor,
Western Edge II,
Western Express Highway,
Borivali East,
Mumbai - 400072.
PAN No.AAOCSS8444F

Central Processing Centre,
Bangalore,
Vs. Judicial Assessing Officer:
Ward 21(3)(2), Mumbai
1st Floor, Prestige Alpha
No.48/1, 48/2,
Beratenaagrahara Begur,
Hosur Rd,
Uttarahalli Hobli,
Bengaluru,
Karnataka – 560 100

Appellant

Respondent

Assessee by	:	None
Revenue by	:	Shri Manoj Kumar Singh,DR
Date of Hearing	:	19/02/2024
Date of pronouncement	:	20/02/2024

ORDER

PER : OM PRAKASH KANT, AM

This appeal of the assessee is directed against order dated 02.12.2021 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, Delhi [In short the Ld. CIT(A)] for assessment year 2019-20, raising following grounds:-



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“1. Addition of ESIC and PF payments of Rs. 6,14,521/- made before the due date of filing of Return as per the provisions of the Income Tax Act, 1961.”

2. This appeal was adjudicated by the Income Tax Appellate Tribunal (in short “the Tribunal”) on 27.07.2022. However, 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 passed on 12.10.2022, on being a miscellaneous application filed by the Revenue, the Tribunal recalled its decision dated 27.07.2022 in order passed in miscellaneous application No.230/M/2023 dated 05.01.2024, for deciding afresh. Accordingly, this appeal has been heard by us.

3. In the grounds raised, the assessee is mainly aggrieved with the adjustment made under section 143(1) of the Income Tax Act, 1961 (in short “the Act”) amounting to Rs.6,14,521/- being any sum received from employees as contribution to provident fund/employees state insurance but not paid to the respective fund before the due date prescribed under the relevant Acts.

4. Before us none appeared on behalf of the assessee and therefore this appeal is decided ex-parte for the assessee after hearing arguments of the Ld. Departmental Representative and perusal of the material on record.

5. We find that the Hon’ble Supreme Court in the case of Checkmate Services Pvt. Ltd. (supra) has held that any amount



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of contribution of the employees towards provident fund or employees state insurance paid after due date under the respective funds is not allowable as deduction under section 36(1)(va) of the Act. It is undisputed that the said amount of Rs.6,14,521/- has been paid after the due date under the respective Act. The assessee had claimed the said deduction in view of the decisions of the Tribunals and Hon'ble High Courts prior to the decision delivered by the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. (supra) and therefore said contentions of the assessee are liable to be rejected. Accordingly, the ground of appeal raised by the assessee is dismissed.

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

Order pronounced in the open Court on 20/02/2024.

Sd/-
(SANDEEP SINGH KARHAIL)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai, Dated: 20/02/2024

Kishore, Sr. PS

Copy of the Order forwarded to :

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



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5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai