

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'H' BENCH,
NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 193/DEL/2023 [A.Y. 2019-20]

Shri Rajesh Kumar Garg
C-5B/5C, Janakpuri
New Delhi

Vs.

The A.C.I.T
Circle -49(1)
New Delhi

PAN: AAACV 2237 K

(Applicant)

(Respondent)

Assessee By : Shri Saurav Rohtagi, CA

Department By : Shri Vivek Vardhan, Sr. DR

Date of Hearing : 21.02.2024

Date of Pronouncement : 21.02.2024

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order dated 10.01.2023 by NFAC, Delhi pertaining to A.Y. 2019-20.

2. The sum and substance of the grievance of the assessee is that the ld. CIT(A) erred in confirming the addition on account of delay in deposit of PF/ESIC beyond due date.

3. This issue is no more res integra as the quarrel is now settled by the decision of the Hon'ble Supreme Court in favour of the Revenue and against the assessee by the decision in the case of Checkmate Services [Pvt] Ltd 448 ITR 518.

4. However, before us, the ld. counsel for the assessee pointed out that due date needs to be verified for making the impugned disallowance. For this, reliance was placed on the decision of the co-ordinate Bench in the case of ACIT Vs. VVDN Technologies ITA No. 164/DEL/2023 and in the case of M/s Benson Movers Pvt Ltd 2710/DEL/2020.

5. As mentioned elsewhere, this issue is squarely covered by the decision of the Hon'ble Supreme Court [supra]. However, for the sake of verification, we direct the Assessing Officer to verify the due date specified in the PF Act and decide the issue accordingly after affording reasonable and adequate opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee in ITA No. 193/DEL/2023 is allowed for statistical purposes.

The order is pronounced in the open court on 21.02.2024.

Sd/-

**[ASTHA CHANDRA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 21st FEBRUARY, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	