

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH : NAGPUR

[THROUGH VIRTUAL HEARING AT PUNE]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.268/NAG./2022
Assessment Year 2018-2019

Mann Engineering Company, 103, Jagat Millenium, Amravati Road, Giripeth, Nagpur – 440 010 Maharashtra PAN AAXFM5673Q	vs.	The DCIT, CPC, Income Tax Department,. Bangalore. Karnataka.
(Appellant)		(Respondent)

For Assessee :	Shri Kapil Hirani, C.A.
For Revenue :	Shri Abhay Y. Marathe, Sr. DR

Date of Hearing :	22.02.2024
Date of Pronouncement :	29.02.2024

ORDER

PER SATBEER SINGH GODARA, J.M.

This assessee's appeal for assessment year 2018-2019, arise against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2022-23/1045067064(1), dated 30.08.2022, involving proceedings u/s.143(1) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties at length. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :

1. *“On the facts and circumstances of the case and in law, the DCIT, CPC Bangalore grossly erred in making and the CIT(A) NFAC, Nagpur grossly erred in confirming the adjustment of Rs.19,52,642/- on account of late deposit of amounts pertaining to Employees contribution to Provident Fund despite the said amounts having been paid by the Appellant before the due date of filing the return of income. The amounts having been paid before the due date of filing the return of income, ought to be allowed as per law and the addition so made deserves to be deleted in the interest of justice.*
2. *The adjustment to total income on account of belated deposit of amounts pertaining to Employees contribution to Provident Fund as made in intimation under section 143(1) is beyond the scope prescribed under section 143(1) of the Act and consequently is illegal and deserve to be deleted as per law.*
3. *The Appellant craves leave to add, amend, alter vary and /or withdraw any or all the above grounds of appeal with the kind permission of the Hon'ble Tribunal.”*

3. There would be hardly any dispute between the parties that hon'ble apex court's recent decision in Checkmate Services P. Ltd., & Ors. vs. CIT & Ors. [2022] 448 ITR 518 (SC) has settled the law that sec.36(1)(1)(v)(a) disallowance is indeed applicable in case the assessee fails to remit the

corresponding ESI/PF dues under the respective law(s) than going by the “due date” for the purpose of filing sec.139(1) return. We thus reject the assessee’s former substantive ground in very terms.

4. Next comes the assessee’s second substantive ground that such a disallowance u/sec.36(1)(1)(va) is not sustainable since made by way of sec.143(1)(a) adjustment. We find no merit in the assessee’s instant latter substantive ground as well as such a course of action is indeed provided u/sec.143(1)(a)(iv) i.e., “disallowance of expenditure” thereof. The assessee’s endeavour to quote the statutory amendment in sec.143(1)(a)(v) vide Finance Act, 2021 w.e.f. 01.04.2021 hardly deserves to be accepted as the same pertains to the specified deduction claims only. We thus reject the assessee’s latter substantive ground as well as well as this main appeal in very terms.

5. This assessee’s appeal is dismissed.

Order pronounced in the open Court on 29.02.2024.

Sd/-
[DR. DIPAK P. RIPOTE]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 29th February, 2024

VBP/-

Copy to

1.	The appellant.
2.	The respondent
3.	The CIT(A)-1, Nagpur.
4.	The Pr. CIT, Nagpur concerned
5.	D.R. ITAT, Nagpur Bench, Nagpur.
6.	Guard File.

//By Order//

//True Copy //

Assistant Registrar, ITAT, Pune Benches,
Pune.