

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F' : NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.3708/DEL/2023
(Assessment Year: 2020-21)**

ITO, Ward 34 (5),
New Delhi.

vs.

Prabhakar Yadav,
A – 11, Nizamuddin West,
New Delhi – 110 013.

(PAN : AFKPY5337H)

**CO No.13/Del/2024
(in ITA No.3708/DEL/2023)
(Assessment Year: 2020-21)**

Prabhakar Yadav,
A – 11, Nizamuddin West,
New Delhi – 110 013.

vs.

ITO, Ward 3 (5),
New Delhi.

(PAN : AFKPY5337H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri P.D. Mittal, CA
REVENUE BY : Shri Vivek Vardhan, Sr. DR

Date of Hearing : 14.03.2024

Date of Order : 18.03.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

The appeal by the Revenue and cross objection by the assessee is filed against the order of the Id. PCIT, Delhi-12 dated 15.12.2023 for the assessment year 2020-21.

2. The Revenue has taken the following grounds of appeal :-

“1. Whether on the facts, Id. CIT (A) has erred in allowing the appeal of the assessee. The Id. CIT (A) ignoring the facts of the case has allowed the incorrect claim of Rs.32,79,252/- of the assessee on account of disallowances u/s 43B in any preceding previous year but allowable during previous year.

2. The Id. CIT (A) has erred in allowing the incorrect claim of Rs.16,42,306/- for the disallowance u/s 36(1)(va) any sum received from employees as contribution to any provident fund or superannuation fund or any fund set up under ESI Act or any other fund for the welfare of employees account on or before the due date.

The judgment of the Hon'ble Supreme Court of India, in the case of Checkmate Services P. Ltd. vs. CIT -1 (Civil Appeal No.2833 of 2016), dated 12.10.2022 has given in the favour of Revenue vide para no.53 & 54 of the said order.”

3. The grounds taken by the assessee in the cross objection read as under:-

“1. The disallowance of Rs.55,413/- U/s 36(1)(va) r.w.s. 43B of the I.T. Act, 1961 in spite of the fact that the said sum was paid on 14.05.2020 being included in the amount of Rs.2,94,171/- of the challan dated 14.05.2020.

2. The disallowance of Rs.6,880/- representing GST ending 31.03.2020 U/s 43B of the I.T. Act, 1961 in spite of the fact that the said sum was paid along with interests vide challan dated 03.06.2020 i.e. much before the filing of the income tax return.

3. The Intimation Order u/s 143(1) dated 28.10.2021 was rectified U/s 154 at the instance of assessee vide order dated 10.12.2021 assessing the total income at declared income.

4. That the order of the CIT (A) has become infructuous being passed much after the passing of the order U/s 154 and accepting all the issues raised before the Ld. CIT (A) in favour of the assessee.”

4. At the outset, in this case, Id. DR for the Revenue fairly accepted that the Revenue's appeal liable to be dismissed because of low tax effect. Accordingly, upon finding that tax effect in this case is below Rs.50 lakhs, the appeal is not maintainable before the ITAT. Hence, Revenue's appeal is dismissed due to low tax effect.

5. As regards, assessee's cross objection is concerned, Id. Counsel for the assessee submitted that assessee has received all necessary benefits from the AO in the order under section 154 of the Income-tax Act, 1961. In this view of the matter, since assessee's grievance has been taken care of, the cross objection filed by the assessee becomes infructuous and the same is dismissed as such.

6. In the result, both the appeal filed by the Revenue and the cross objection filed by the assessee are dismissed.

Order pronounced in the open court on this 18th day of March, 2024.

Sd/-

sd/-

**(YOGESH KUMAR US)
JUDICIAL MEMBER**

**(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

Dated the 18th day of March, 2024

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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.PCIT, Delhi-12.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**