

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER

&

SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA No.2765/Mum/2023

(Assessment Year :2020-2021)

Deputy Commissioner of Income Tax Aayakar Bhavan Room No.571 5 th Floor, Churchgate Mumbai	Vs.	Press2 Drycleaning and Laundry Pvt. Ltd. 243A, Centre Point Condominium N.M. Joshi Marg Opp. Bawla Masjid Maharashtra
PAN/GIR No.AAECP3228Q		
(Appellant)	..	(Respondent)

Assessee by	Shri Prinyank Ghia
Revenue by	Shri R.R.Makwana
Date of Hearing	19/03/2024
Date of Pronouncement	19/03/2024

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the Revenue against order dated 30/05/2023 passed by NFAC, Delhi in relation to the adjustment made in the intimation u/s. 143(1).

2. Following grounds have been raised by the Revenue:-

“On the facts and circumstances of the case, whether the Ld CIT(A) has erred in holding that the adjustment made u/s 36(1)(va) of the IT Act towards the Employee Contribution to

provident Fund and ESIC is outside the scope of section 143(1)(a)(iv) of the Income Tax Act.

2 On the facts and circumstances of the case, whether the Ld.CIT(A) has erred in treating that the adjustment made u/s 36(1)(ve) of the IT Act towards the Employee Contribution to Provident fund and ESIC without appreciating decision of the Hon'ble SC in the case of Checkmate Service Private Limited wherein it was held that disallowance u/s 36(1)(va) of the Act is applicable in case the payment to PF/ESIC fund is made after the due date as per relevant welfare Act.

3 On the facts and circumstances of the case, whether the Ld.CIT(A) has erred in ignoring the fact that due opportunity was given to the assessee by the CPC and after considering the response of the assessee, disallowance w/s 36(1)(va) of the IT Act was made in view of the decision of jurisdictional ITAT in the case of Kalpesh Synthetics (P) Ltd Vs Dy. CIT(2022) 137 taxmann.com 475/195 ITD 142(mumb. Trib.)”.

2. At the outset, it is seen that the addition is only of Rs.9,03,193/- and tax effect is Rs.2,34,830/- as per Memorandum of Appeal. Nowhere in the authorization Memo any exceptional circumstances have been stated as to why the CBDT Circular No. 17/2019 dated 08/08/2019 prescribing tax limit for filing of appeal which is Rs.50,00,000/- has not been provided. Admittedly the tax affect is much below the prescribed limit and no exception circumstances mentioned in the said circular is applicable. Accordingly, the appeal of the Revenue is dismissed on account of low tax effect in view of CBDT Circular No.17/2019 dated 08/08/2019.

3. In the result, appeal of the Revenue is dismissed.

Order pronounced on 19th March, 2024.

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 19/03/2024
KARUNA, *sr.ps*

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai