

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 82/PAT/2021
Assessment Year: 2018-2019**

***Kiran Automobiles Private Limited,..... Appellant
Khajekalan Sabzi Mandi Patna City,
Patna-800008, Bihar
[PAN: AAECK6965F]***

-Vs.-

***CPC, AO,.....Respondent
Lok Nayak Bhawan,
Patna-800001, Bihar***

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Rupesh Agrawal, Sr. D.R., appeared on behalf of the
Revenue*

Date of concluding the hearing : January 24, 2024

Date of pronouncing the order : April 09, 2024

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 3rd September, 2021 passed for A.Y. 2018-19.

2. The assessee has taken four grounds of appeal, out of which Grounds No. 3 and 4 are general grounds of appeal, which do not call for recording of any finding.

3. In Ground No. 1, the assessee has pleaded that the ld. CIT(Appeals) has erred in confirming the disallowance of Rs.28,66,076/-, which was disallowed by the ld. Assessing Officer on the ground that the assessee failed to make payments of PF & ESI within due date to these respective accounts.

4. In Ground No. 2, the assessee has made arguments in its favour on the strength of order of ITAT in ITA No. 359/Bang/2021 as well as on the strength of Hon'ble Patna High Court in the case of Bihar State warehousing Corporation Limited -vs.- CIT reported in (2016) 386 ITR 410.

5. With the assistance of ld. D.R., we have gone through the record carefully. Recently Hon'ble Supreme Court has considered all these decisions and silent the controversy on this issue. The Hon'ble Supreme Court in the case of Checkmate Services (P) Limited -vs.- CIT reported in 143 taxmann.com 178 has held that if employees' contribution is not paid to the respective P.F. & ESI Accounts, then assessee will not be entitled for any deduction. In view of

the latest decision of the Hon'ble Supreme Court, no other case law is to be followed. Therefore, preference to the decision of the Hon'ble Patna High Court as well as the orders of the ITAT over the decision of the Hon'ble Supreme Court cannot be given. Respectfully following the judgment of the Hon'ble Supreme Court, Ground No. 1 and 2 of the assessee's appeal are rejected.

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

Order pronounced in the open Court on 09.04.2024.

Sd/-

Sd/-

(Manish Borad)
Accountant Member

(Rajpal Yadav)
Vice-President

Kolkata, the 9th day of April, 2024

- Copies to :*(1) *Kiran Automobiles Private Limited,*
Khajekalan Sabzi Mandi Patna City,
Patna-800008, Bihar
(2) *CPC, AO,*
Lok Nayak Bhawan, Patna-800001, Bihar
(3) *Commissioner of Income Tax (Central),*
National Faceless Appeal Centre (NFAC), Delhi;
(4) *CIT-*
(5) *The Departmental Representative*
(6) *Guard File*

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By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.