

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC - C” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT**

ITA No.1006/Bang/2024
Assessment Year : 2019-20

M/s. Ken Private Limited, C 103 Trivoli Apartment, Block Vento, 1 <sup>st</sup> Floor, Segehalli Village, Whitefield, Hoskote Road, Bengaluru – 560 067. <b>PAN : AAECR 8792 R</b>	Vs.	DCIT, Circle – 4(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sandeep Chalapathy, CA
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	24.06.2024
Date of Pronouncement	:	25.06.2024

**ORDER**

*Per George George K, Vice President:*

This appeal at the instance of the assessee is directed against the order of CIT(A) dated 22.03.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2019-20.

2. The solitary issue that is raised is whether CIT(A) is justified in confirming the intimation passed under section 143(1)(a) of the Act, wherein the deduction of employees’ contribution of Rs.4,12,746/- under section 36(1)(va) of the Act was disallowed, even though the same was paid before the due date specified under section 139(1) of the Act.

3. Brief facts of the case are as follows:

Assessee is a company. For the Assessment Year 2019-20, the return of income was filed on 31.10.2019 declaring income of Rs.23,65,770/-. The return of income was processed under section 143(1) of the Act vide order dated 06.07.2020. In the said intimation, there was a disallowance in respect of employees' contribution to the PF and ESI since the same was paid beyond the due date prescribed under the respective statutes.

4. Aggrieved by the intimation issued under section 143(1) of the Act, assessee preferred appeal before the CIT(A). The CIT(A) confirmed the intimation issued under section 143(1) of the Act. The CIT(A) relied on the judgment of the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., reported in 448 ITR 518 (SC). Further, the CIT(A) relying on the Order of the Chennai Bench of the Tribunal in the case of Electrical India and Others Vs. ADIT, CPC in ITA No.117/CHNY/2022 (Order dated 30-03-2022) held that adjustment made under section 143(1)(a) of the Act is valid.

5. Aggrieved by the Order of the CIT(A), assessee filed the present appeal before the Tribunal. The learned AR relied on the grounds raised.

6. The learned Standing Counsel supported the Order of the CIT(A).

7. I have heard the rival submissions and perused the material on record. The solitary issue that is raised is whether CIT(A) is justified in confirming the intimation in respect of disallowance made under section 36(1)(va) of the Act of the employees' contribution to the PF amounting to Rs.4,12,746/-. Admittedly, in

this case, the said amount has not been paid within the due date specified in the PF Act. The issue raised is no longer *res integra* and is squarely covered by the judgment of the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., (supra). The Hon'ble Apex Court has categorically held that to claim deduction of employees' contribution under section 36(1)(va) of the Act, the same needs to be paid within the due date specified under the respective Act. In view of the Hon'ble Apex Court's judgment which has been elaborately extracted in the impugned order of the CIT(A), I hold that the disallowance of claim of deduction under section 36(1)(va) of the Act is justified and legally correct. It is ordered accordingly.

8. In the result, appeal filed by the assessee is dismissed.

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 25.06.2024.

/NS/\*

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent           |
| 3. DRP        | 4. CIT                  |
| 5. CIT(A)     | 6. DR, ITAT, Bangalore. |
| 7. Guard file |                         |

By order

Assistant Registrar,  
ITAT, Bangalore.