

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Mahavir Singh, Hon'ble Vice-President and
Shri Manjunatha, G. Accountant Hon'ble Accountant Member

आ.अपी.सं / **ITA Nos.116 & 117/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2018-19)

Pragati Green Meadows and Resorts Ltd Hyderabad PAN:AACCP5283H	Vs.	Dy. C. I. T. Circle 16(2) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by: Shri P Murali Mohan Rao, CA		
राजस्व द्वारा / Revenue by: Shri B. Balakrishna, DR		
सुनवाई की तारीख / Date of hearing: 24/09/2024		
घोषणा की तारीख / Pronouncement: 25/09/2024		

आदेश/ORDER

Per Manjunatha, G. A.M

These two appeals filed by the assessee are directed against the separate orders passed by the learned CIT (A) NFAC both dated 18/12/2022 and pertains to A.Y.2018-19. Since facts are identical and common issues are involved in these two appeals, for the sake of convenience, these appeals were heard together and are being disposed off by this common order.

2. The brief facts of the case are that the assessee M/s. Pragati Green Meadows and Resorts Ltd has filed its return of income for the A.Y 2018-19 on 29/10/2018 declaring total income of Rs.1,57,38,778/-. The return of income filed by the assessee has been processed and intimation was issued u/s 143(1) on 3/11/2019 and determined the total income at Rs.11,88,29,960/- by making additions towards disallowance of agricultural income and belated payment of employees contribution to EPF and ESI. Subsequently, the case has been selected for scrutiny and the order u/s 143(3) of the I.T. Act, 1961 was passed on 10/06/2021 and assessed the total income at Rs.11,88,29,960/-.

3. Being aggrieved, the assessee preferred an appeal before the learned CIT (A) against the order passed u/s 143(1) dated 3/11/2019 and the order passed u/s 143(3) of the Act, dated 10/06/2021. The learned CIT (A) partly allowed the appeal filed by the assessee where the issue on additions towards agricultural income has been set aside to the file of the Assessing Officer for verification, however, confirmed the additions made towards belated payment of employees contribution to EPF/ESI.

4. Aggrieved by the order of the learned CIT (A) the assessee is in appeal before the Tribunal.

5. The first issue that came up for our consideration from both the appeals filed by the assessee is addition towards agricultural income of Rs.7,17,33,665/-. The learned Counsel for the assessee at the time of hearing submitted that the assessee has got relief from the Assessing Officer while passing the order giving effect to the order passed by the learned CIT (A) and thus,, the assessee does not wish to press grounds raised on this issue in both the appeals. The learned DR present for the Revenue has no objection. Thus, the grounds of appeal raised by the assessee in respect of addition towards agricultural income has been dismissed as withdrawn.

6. The next issue that came up for our consideration from both the appeals filed by the assessee is addition towards belated payment of employee's contribution to EPF/ESI. The Assessing Officer has disallowed belated payment of employee's contribution to EPF/ESI under respective Acts, on the ground that any belated payment of employee's contribution to EPF/ESI is not allowable as deduction u/s 36(1)(va) r.w.s. 43B r.w.s. 2(24)(x) of the I.T. Act, 1961. The learned CIT (A) confirmed the addition made by the Assessing Officer, by following the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT-1 in Civil Appeal No.2833 of 2016 dated 12/10/2022, where the Hon'ble Supreme Court held that, belated payment of employee's contribution to EPF/ESI cannot be allowed as deduction.

7. The learned Counsel for the assessee submitted that there is no dispute on the issue covered by the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT (Supra), however, the dates of payment of employee's contribution to EPF/ESI needs to be verified, and thus, the matter may be set aside to the file of the Assessing Officer.

8. The learned DR, on the other hand, fairly agreed that in case the assessee is able to prove the payment on or before the due date prescribed under the respective Acts, then the Assessing Officer may verify the issue in light of the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT (Supra).

9. We have considered the relevant reasons given by the learned Counsel for the assessee in light of the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT (Supra). There is no dispute with regard to the fact that the belated payment of employee's contribution to EPF/ESI under the respective Acts cannot be allowed as deduction u/s 36(1)(va) r.w.s. 43B r.w.s. 2(24)(x) of the I.T. Act, 1961 and this fact is reiterated by the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT (Supra). However, the argument of the learned Counsel for the assessee that in few instances, there is a dispute with regard to the date of actual payment, in light of provisions of relevant Acts and same needs to be verified at the

end of the Assessing Officer. We find that in case the appellant is able to establish with necessary evidences that payment towards EPF/ESI has been remitted on or before the due date prescribed under the respective Acts, then the Assessing Officer may verify the dates of payment in light of the decision of the Hon'ble Supreme Court in the case of Checkmate Services (P) Ltd vs. CIT (Supra) and decide the issue in accordance with law.

10. In the result, both the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the Open Court on 24th September, 2024.

Sd/-

Sd/-

(MAHAVIR SINGH) VICE-PRESIDENT	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 24th September, 2024

Vinodan/sps

Copy to:

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2	Dy.CIT Circle 16(2) Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order