

**THE INCOME TAX APPELLATE TRIBUNAL,  
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)  
&  
Shri Rakesh Mishra, Accountant Member**

**I.T.A. No. 935/KOL/2024  
Assessment Year: 2018-2019**

***M/s. Inland World Logistics Pvt. Limited,...Appellant  
P-221/2, Strand Bank Road, Burrabazar,  
Kolkata-700001  
[PAN:AAACI5607C]***

**-Vs.-**

***Principal Commissioner of Income Tax (Central),  
Kolkata-2,.....Respondent  
Aayakar Bhawan,  
P-7, Chowringhee Square,  
Kolkata-700069***

**Appearances by:**

*Shri Rakesh Jain, FCA, appeared on behalf of the  
assessee*

*Shri Subhendu Datta, CIT (D.R.) and Smt. Monali Shaha  
Mukherjee, JCIT, appeared on behalf of the Revenue*

**Date of concluding the hearing: July 25, 2024**

**Date of pronouncing the order: October 03, 2024**

**O R D E R**

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

The assessee is in appeal before the Tribunal against the order of Id. Principal Commissioner of Income Tax (Central), Kolkata-2 dated 11<sup>th</sup> March, 2024 passed under section 263 of the Income Tax Act in Assessment Year 2018-19.

2. The solitary grievance of the assessee is that ld. Principal CIT has erred in taking cognizance under section 263 of the Income Tax Act and thereby setting aside the assessment order dated 31.03.2022 passed under section 153A of the Income Tax Act in A.Y. 2018-19.

3. The assessee has filed its original return under section 139(1) for A.Y. 2018-19 on 18.03.2019. This return was revised by the assessee. Thereafter it was processed under section 143(1) on 29.11.2019. The notice under section 143(2) could be issued to the assessee on or before 30<sup>th</sup> September, 2019, but it was not issued and no scrutiny assessment was undertaken. A search under section 132 of the Income Tax Act was carried out upon the assessee on 31.03.2022. The ld. Assessing Officer has issued a notice under section 153A of the Income Tax Act on 26.10.2021. The ld. Assessing Officer has accepted the original returned income of the assessee filed under section 139. He did not make any addition because no seized material was found. He passed the assessment order on 31.03.2022.

4. The ld. Pr. CIT assumed jurisdiction under section 263 on the ground that the assessee failed to deposit employees' contribution amounting to Rs.4,63,685/- to the respective PF & ESI accounts within the due date provided under those Acts. Therefore, in the understanding of the ld. Pr. CIT was, that an apparent error has crept in the assessment order passed under section 153A/143(3) of the Income Tax Act. He issued a show-cause notice to the assessee under section 263 of the Income Tax Act. The assessee

has filed number of submissions but after putting reliance upon the judgment of the Hon'ble Supreme Court in the case of Checkmate Services (P) Limited -vs.- CIT reported in 143 taxmann.com 178, ld. CIT has set aside the assessment order and relegated the issue to the file of ld. Assessing Officer for re-adjudicating the issue after providing reasonable opportunity of hearing to the assessee.

5. With the assistance of ld. Representatives, we have gone through the record carefully. The Hon'ble Supreme Court in the case of Pr. CIT, Central -3 -vs.- Abhisar Buildwell (P) Ltd. [2023] 149 taxmann.com 399 (SC) has propounded the scope of an assessment under section 153A. It has been held by the Court that additions under section 153A could be made if during the course of search, any incriminating material exhibiting the escapement of income was seized. In other words, nothing was seized. The item of disallowance out of PF & ESI payments was a regular issue, which could have been gone into in the scrutiny assessment. Even at that time, the judgment of the Hon'ble Supreme Court has not been delivered in the case of Checkmate Services (P) Limited. Therefore, when the ld. Assessing Officer has passed the assessment order in a search assessment under section 153A, there was no incriminating material possessed by him on the basis of which such a disallowance could be made. The ld. Assessing Officer has adopted appropriate position of law and no apparent error has ever crept in order of the ld. Assessing Officer, which could have caused a prejudice to the interest of revenue. Therefore, the findings of the ld. Pr. CIT are not

sustainable in view of the judgment of the Hon'ble Supreme Court in the case of Abhisar Buildwell (P) Ltd. and accordingly, we quash the order passed under section 263 of the Income Tax Act.

**6. In the result, the appeal of the assessee is allowed.**

Order pronounced in the open Court on 03/10/2024.

Sd/-

**(Rakesh Mishra)**  
**Accountant Member**

Sd/-

**(Rajpal Yadav)**  
**Vice-President (KZ)**

**Kolkata, the 3<sup>rd</sup> day of October, 2024**

*Copies to :(1) M/s. Inland World Logistics Pvt. Limited,  
P-221/2, Strand Bank Road, Burrabazar,  
Kolkata-700001*

*(2) Principal Commissioner of Income Tax  
(Central), Kolkata-2,  
Aayakar Bhawan,  
P-7, Chowringhee Square, Kolkata-700069*

*(3) CIT - , Kolkata;*

*(4) The Departmental Representative;*

*(5) Guard File*

*TRUE COPY*

*By order*

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

**Laha/Sr. P.S.**