

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'A' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 2038/Del/2024  
Assessment Year: 2019-20**

Ashok Kumar, House no. 1, Raksha Nikunj, MG Brother Wali Street, Boy Alahalli, Bangalore-562149  PAN: <b>AKHPK 3133 B</b>	<u>Vs</u>	Income-tax Officer, Circle-67(1), Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee by</b>	<b>Shri Hemant Jain, Adv..</b>	
<b>Department by</b>	<b>Shri Poojan Rana, Sr. DR</b>	
<b>Date of hearing</b>	<b>20.11.2024</b>	
<b>Date of pronouncement</b>	<b>27.11.2024</b>	

**ORDER**

**PER SATBEER SINGH GODARA, JM:**

This assessee's appeal for assessment year 2019-20 arises against National Faceless Appeal Centre (NFAC), Delhi's DIN and order no. ITBA/NFAC/S/250/2022-23/1047593174(1), dated 23.11.2022, in case no. CIT(A), Delhi-21/10026/2020-21, in proceedings u/s 154 of the Income-tax Act, 1961, hereinafter referred to as the 'Act'.

Heard both the parties at length. Case file perused.

2. It emerges at the outset that both the learned lower authorities and more particularly the assessing officer herein had taken recourse to section 154

rectification for disallowing the assessee employees' contribution amounting to Rs. 8,37,613/- u/s 36(1)(va) of the Act.

3. Faced with this situation the department vehemently argues that in light of Checkmate Services Pvt. Ltd. vs. CIT (2022) 143 taxmann.com 278 (SC) that the instant issue is no more res-integra as settled by the hon'ble apex court. We, however, notice that the learned Assessing Officer had invoked the impugned disallowance not in section 143(3) proceedings but in section 154 rectification, wherein he had failed to ensure compliance of sub-section (3) thereof, as no 'opportunity' much less a reasonable one was afforded to the taxpayer. We, thus, conclude in this background that the impugned rectification is not sustainable in law once it violates section 154(3) of the Act. Ordered accordingly.

4. This assessee's appeal is allowed in above terms.

Order pronounced in open court on 27.11.2024.

**Sd/-**  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**  
\*MP\*

**Sd/-**  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI