

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

ITA No. 1519/Del/2024 : Asstt. Year : 2018-19

Ashok Kumar Near Shiv FloorMill, Shiv Nagar, Patuadi Road, Gurgaon-122001 (APPELLANT)	Vs	Income Tax Officer Ward-1(3), Gurgaon, Haryana (RESPONDENT)
PAN No. BETPK7014L		

**Assessee by : None
Revenue by : An application for adjournment by
Sr. DR**

Date of Hearing: 11.11.2024	Date of Pronouncement: 26.11.2024
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment year 2018-19, arises against the CIT(A)/National Faceless Appeal Centre [in short the "NFAC"], Delhi dated 02.02.2024.

2. Case called twice. None appear at the assessee's behest. It is accordingly proceeded *ex-parte*.

3. The assessee pleads the following substantive grounds in the instant appeal:

"1 a. The CIT(A) has summarily dismissed the appeal filed by the assessee without discussing the grounds on merits which is unjustified, illegal and against the provisions of the Act.

2 b. The order passed is in complete disregard of the factual details and submissions filed by the appellant during the course of the assessment proceedings and

appeal before the Commissioner of Income Tax (Appeals).

3 c. The CIT(A) have grossly erred affirming the disallowance employees contribution to PF Rs. 27,41,135, and ESI Rs. 15,65,131/- deposited beyond due date prescribed under relevant Acts but before due date of filing of return. The relevant clauses amended with effect from 1.4.2021, which is in prospective in operation.

4 d. Ld. CIT(A) ought to have appreciated the rational of allowance of employer's contribution even if made beyond due date of filing of return under section 43B as per amendment with effect from 01.04.2004.

5 e. Ld. CIT(A) is not correct in disallowing the employees contribution to EPF u/s 36(1)(va) of the Act in view of the fact that the same had been deposited before the due date of filing of return of income and therefore the same is liable to be deleted. There is no distinction between employees and employer contribution to PF, and if the total contribution is deposited on or before the due date of furnishing return of income u/s 139(1) of the Act, then no disallowance can be made towards employees' contribution to provident fund."

4. Suffice to say, it is clear as per the assessee's foregoing pleadings that hon'ble apex court's recent landmark decision in the case of Checkmate Services P. Ltd. vs. Commissioner Of Income Tax-I (2022) 448 ITR 518 (SC) dated 12.10.2022 has already settled the issue of such ESI/PF that such dues have to be deposited as per due date(s) in the corresponding statute(s) than that of filing of return u/s 139(1) of the Act. We thus, find no merit in assessee's sole substantive grievance in principle. We make it clear at the same time that the assessee shall indeed be at liberty to agitate the issue of "due" date compliance before the learned assessing authority in consequential computation as per law. Order accordingly.

5. This assessee's appeal is partly allowed for statistical purpose in above terms.

Order Pronounced in the Open Court on 26/11/2024.

Sd/-

(M. Balaganesh)
Accountant Member

Dated: 26/11/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR