

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

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

ITA No.2547/Del/2024
Assessment Year: 2022-23

Mehra Metal Components Pvt. Ltd., 201, Harsh Bhawan, 64-65 Nehru Place, New Delhi	Vs.	DCIT, Circle-16(1), New Delhi
PAN: AAACM8494M		
(Appellant)		(Respondent)

Assessee by	Sh. Ankur Agarwal, CA
Department by	Sh. B. S. Anand, Sr. Dr

Date of hearing	27.11.2024
Date of pronouncement	04.12.2024

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2022-23, arises against the ADDL/JCIT(A)-National Faceless Appeal Centre [in short, the "JCIT-NFAC"] Mumbai's DIN and order no. ITBA/APL/S/250/2023-24/1063473328(1) dated 27.03.2024 involving proceedings under section 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.
3. The assessee pleads the following substantive grounds in the instant appeal:

1. That the order dated 27.03.2024 passed u/s 250 of the Income-tax Act, 1961 (hereinafter called "the Act") by the Ld. Addl/Joint Commissioner of Income Tax (Appeals)- 11, Mumbai is against law and facts on the file in as much as he was not justified to uphold the action of CPC Bangalore in adding back a sum of Rs. 6,48,839/- on account of alleged delayed payment of Employees Contribution to Provident Fund/ Employees State Insurance by invoking the provisions of section 2(24)(x) read with section 36(1)(va) of the Income-tax Act, 1961

2. That the order dated 27.03.2024 passed u/s 250 of the Act by the Ld. Addl/Joint Commissioner of Income Tax (Appeals)-11, Mumbai is against law and facts on the file in as much as he was not justified to uphold the action of CPC Bangalore in adding back a sum of Rs. 5,18,754/- on account of profit on sale of fixed assets (which were disallowed itself by the Appellant Company under section 438 of the Act while filing the return of income) by ignoring the fact that the same is allowable under the Act

3 That the order dated 27.03.2024 passed u/s 250 of the Act by the Ld. Addl/Joint Commissioner of Income Tax (Appeals)-11, Mumbai is against law and facts on the file in as much as he was not justified to uphold the action of CPC Bangalore in passing the order u/s 143(1) of the Act or making adjustments as the same fall beyond the scope of the provisions of section 143(1) of the Act

4 That the Appellant craves to add, amend, alter, modify or delete any or all of the grounds of appeal before or at the time of hearing.

4. Suffice to say, it has come on record during the course of hearing that hon'ble apex court in the recent landmark judgment in Checkmate Services Pvt. Ltd. Vs. CIT (2022) 448 ITR 518 (SC) has already settled the issue in department's favour that employees' contribution to Provident Fund (PF) and Employee's State Insurance (ESI) has to be deposited on or before the due date in the corresponding statute than that prescribed under section 139(1) of the Act.

5. Faced with this situation; learned counsel submitted that such a disallowance made in section 143(1) processing is not sustainable in law as it does not fall in either of the corresponding (i) to (v) clauses.

6. We are of the considered view that case law Rohan Korgaonkar Vs DCIT (2024) 159 taxman.com 321 (Bom.) has already rejected the assessee's very contentions thereby deciding the issue in department's favour.

7. Learned counsel lastly contends in respect of assessee's second substantive ground that both the lower authorities herein have erred in law and in facts in adding back sum of Rs.5,18,754/- on account of profit on sale of fixed assets which was already

disallowed under section 43B of the Act. The Revenue could hardly dispute that the instant issue requires more a factual verification than a substantive adjudication so as to avoid the impugned double addition. We accordingly direct the learned Assessing Officer to verify these crucial aspects in his consequential computation, as per law.

8. No other ground or argument has been pressed before us.

9. This assessee's appeal is partly allowed for statistical purposes in above terms.

Order pronounced in the open court on 4th December, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 4th December, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi