

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

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

**ITA No. 3757/Del/2023 : Asstt. Year : 2020-21**

Novelvox Softwares India Pvt. Ltd., SSR Corporate Park, 8 <sup>th</sup> Floor, 802- 803, Faridabad, Haryana-121003 (APPELLANT)	Vs	ADIT, CPC, Bengaluru-560100 (RESPONDENT)
<b>PAN No. AACCI0512Q</b>		

**Assessee by : Sh. Sanat Kapoor, Adv. &  
Ms. Ananya Kapoor, Adv.  
Revenue by : Sh. Akhilesh Kumar Yadav, Sr. DR**

<b>Date of Hearing: 05.12.2024</b>	<b>Date of Pronouncement: 10.12.2024</b>
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**ORDER**

**Per Satbeer Singh Godara, Judicial Member:**

This assessee's appeal for Assessment Year 2020-21, arises against CIT(A)/NFAC, Delhi's DIN & order No. ITBA/APL/S/250/2023-24/1057291568(1) dated 23.10.2023 in proceedings u/s 143(1) of the Income Tax Act, 1961 (in short "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. In view of the facts and circumstances of the case, the order dated 23/10/2023 passed by the National Faceless Appeal Centre, Delhi ("NFAC/CIT(A)") is erroneous in confirming the order passed by Asst. Director of Income Tax, Centralized Processing Centre ("CPC")/NFAC under Section 143(1) of the Income Tax Act, 1961 ("the Act") as the disallowance made therein is illegal, bad in law, without*

*jurisdiction and void ab-initio. The disallowance made is erroneous, unjustified and illegal.*

2. *In view of the facts and in the circumstances of the case, the CIT(A) has erred in confirming addition/disallowance of Rs.7,34,403/- on account of late deposit of ESI and PF u/s. 36(l)(va) of Income Tax Act, 1961.*

3. *In view of the facts and circumstances of the case, the CIT(A) has failed to consider that the addition has been made under Section 143(1) of the Act and is beyond the scope of the said section and as such the CPC had no power/authority/jurisdiction to make the said addition u/s 143(1) of the Act.*

4. *In view of the facts and circumstances of the case and in law, the CIT(A) has failed to appreciate that no disallowance is called for where employee's share of contribution is paid before the due date of filing the return under Section 139(1) of the Act. Therefore, the disallowance amounting to Rs. 7,34,403/- made on this account is illegal, bad in law and liable to be deleted.*

5. *In view of the facts and circumstances of the case and in law, the CIT(A) ought to have considered that the month in which the salary is actually disbursed to the employee should be considered as the relevant month of deduction for the purpose of calculating the due date of deposit of Employee Provident fund and ESIC as held in various judgments.*

6. *That the Ld CIT(A) has wrongly interpreted the judgments quoted in the impugned CIT(A) order as against the assessee.*

7. *That the AO/CPC/CIT(A) has failed to provide any opportunity to the Assessee and the same is in violation of principle of natural justice and the impugned orders are liable to be set aside on this ground alone.*

8. *That in view of the facts and circumstances of the case and in law, AO or CPC has erred in charging interest under Section 234A, 234B and 234C of the Act. The charging of interest is illegal and excessive and has been wrongly worked out. It cannot be justified by any material on record.*

9. *That the CIT(A)/CPC has failed to consider the material placed and available on record and has failed to judicially interpret the same as the same do not justify the addition/disallowance made."*

4. Suffice to say, learned counsel has raised three substantive arguments *inter alia* that both the lower authorities have erred in law and on facts in disallowing the assessee's ESI/PF claim of Rs.7,34,403/- in section 143(1) "processing",

and that too, despite the fact that it had duly credited the same in the prescribed account on or before the "due" date of filing section 139 return. And it had also complied with the statutory condition whilst depositing the said ESI/PF amount in the month of actual disbursement of salary, respectively.

5. The department has drawn strong support from both the learned lower authorities making the impugned disallowance.

6. We have given our thoughtful consideration to the foregoing rival submissions and find no merit in the assessee's former twin substantive arguments. There would be hardly in dispute between the parties that hon'ble apex court's landmark decision in Checkmate Services P. Ltd. vs. Commissioner Of Income Tax-I (2022) 448 ITR 518 (SC) has already settled the issue in department's favour that the necessary compliance of crediting the prescribed ESI/PF dues ought to be as per the due date given in the said corresponding statute(s) than that of filing section 139(1) return. This is further coupled with the fact that case law (2024) 159 taxmann.com 321 (Bom.) Rohan Korgaonkar vs. DCIT has further rejected the assessee's very arguments that such a disallowance is not sustainable once made in section 143(1) "processing". These assessee's twin arguments stand rejected in very terms.

7. Faced with this situation, the assessee reiterated its third substantive argument hereinabove in light of its fifth ground that the necessary compliance of deducting/crediting the corresponding ESI/PF dues has been duly made in the month of actual disbursement of salary. The Revenue could hardly dispute that this crucial aspect has nowhere been considered in the learned lower authorities respective orders. We thus deem it appropriate to restore the assessee's instant fifth substantive

ground herein in the learned Assessing Officer's afresh adjudication and factual verification with a rider that the taxpayer shall only plead and prove all the relevant facts within three effective opportunities at it's own risk and responsibility, in consequential proceedings. Ordered accordingly.

8. This assessee's appeal is partly allowed for statistical purposes.

Order Pronounced in the Open Court on 10/12/2024.

Sd/-

**(M. Balaganesh)**  
**Accountant Member**

**Dated: 10/12/2024**

\*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**