

**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.3804/Del/2024
Assessment Year: 2018-19

N S Associates Pvt. Ltd., 33 Zakir Bagh, Opp. Surya Hotel, Zakir Nagar, New Delhi	Vs.	DCIT, Circle-18(1), Delhi
PAN :AABCN7057J		
(Appellant)		(Respondent)

Assessee by	Sh. Suraj Suman, CA
Department by	Sh. Akhilesh Kumar Yadav, Sr. DR

Date of hearing	05.12.2024
Date of pronouncement	16.12.2024

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2018-19, arises against the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre [in short, the "CIT(A)-NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1065999991(1) dated 25.06.2024 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.
3. We note at the outset that both the learned lower authorities herein have disallowed the assessee's ESIC/PF deduction claim of Rs.46,42,955/- for not having got credited/deposited in the prescribed account before the "due" date in the corresponding statute(s) than that of filing of section 139(1) return. Suffice to say, hon'ble apex court in case of Checkmate Services Pvt Ltd Vs. CIT [2022] 143 taxmann.com 278 (SC) has already settled the issue in department's favour that the due date in such an instance has to be specified under the corresponding statute(s) only. We thus reject the assessee's first and foremost legal contention in very terms.
4. It further transpires that there is no detailed discussion indicating the learned Assessing Officer to have verified all the relevant facts regarding above stated compliance in assessment order of the CIT(A)-NFAC or in the lower appellate proceedings. We thus leave it upon the Assessing to carry out necessary afresh verification as per law subject to a rider that the assessee shall plead and prove all the relevant facts at his own risk and responsibility in consequential proceedings. Ordered accordingly.

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

Order pronounced in the open court on 16th December, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 16th December, 2024.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi