

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI  
Before Sh. Satbeer Singh Godara, Judicial Member**

**ITA No. 3767/Del/2024  
(Assessment Year: 2019-20)**

TS5 Secure Pvt. Ltd, M-1, Intermediate Floor, Samrat Bhawan, A-7, 8,9, Ranjit Nagar Commnity Centre, New Delhi-110008 (Appellant)	Vs. ADIT, Circle-25(1), Delhi
<b>PAN: AADCT9043N</b>	(Respondent)

Assessee by : Shri Rajinder Rathore, Adv.  
Revenue by: Shri Sahil Kumar Bansal, Sr. DR

Date of Hearing 24/12/2024  
Date of pronouncement 24/12/2024

**ORDER**

1. This assessee's appeal for Assessment Year 2019-20, arises against the order of CIT(A)/NFAC, Delhi dated 16.02.2024 in case No. ITBA/APL/S/250/2023-24/1061051797(1), 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 has raised the following substantive grounds:-

*"1. The CIT (A) Is erred in law by confirming the order u/s 143(1) of Assessing Officer, which is bad in law on facts and circumstances of the case.*

*2. That the CIT (A) is erred In law by conferring the order of Assessing officer which is in violation of principle of natural justice and against the rule of audi alteram partem.*

*3. That the CIT (A) is erred in law by not providing the opportunity of Virtual Hearing as requested by the appellate, which is against the principal of natural justice as per law.*

4. *The CIT (A) is erred in law by applying the judgment of Hon'ble Supreme Court of Checkmate Services Pvt. Ltd. Vs. Commissioner of Income Tax, which is distinguish to the facts of the appellate case.*

5. *That the disallowance made on account of EPF amount paid amounting to Rs.12,69,381/- is bad in law as per the details facts and circumstances of the case and hence, the disallowance made is liable to be deleted.*

6. *That the disallowance made on account of ESI amount paid amounting to Rs. Rs.3,36,499/- is bad in law as per the details facts and circumstances of the case and hence, the disallowance made is liable to be deleted.*

7. *That the Ld. AO has erred in facts and law by passing an order without considering the decisions of Hon'ble Courts & Tribunals, which is bad in law.*

8. *The CIT (A) is erred in law by confirming the order of Assessing Officer without considering the real income theory, which is the principle of computation of taxable income as per provision of Income Tax law.*

9. *The CIT (A) is erred in law by confirming the order of Assessing Officer without considering the expenditure incurred of Rs. 16, 05,880/- u/s 37(1) of Income Tax Act, which is bad in law.*

10. *The appellant prays for leave to add, alter, modify and withdraw any of the grounds either before or at the time of hearing."*

4. Suffice to say, so far as correctness of the impugned ESI/ PF disallowance/addition amounting to Rs. 12,69,381/- made by the learned lower authorities in principle is concerned, case law Checkmate Services (P.) Ltd. Vs. ADIT (2022) 143 taxmann.com 178 (SC) and Rohan Korangkar Vs. DCIT (2024) 159 taxmann.com 321 (Bom.) have settled the issue against the assessee and in department's favour that the same could indeed be made as per the due date in the corresponding statute that of filing section 139(1)

return as well as in section 143(1)(a) "processing" as well, respectively.

5. So far as the assessee all other arguments on merits regarding the counting of the corresponding date from actual payment of salary and necessary compliance thereof is concerned, the learned assessing authority is directed to verify all the relevant facts in consequential proceedings.

6. This appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 24/12/2024.

Sd/-

**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 24/12/2024  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi