

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"B" BENCH, MUMBAI**

**BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**ITA No.1674/MUM/2023**  
**(Assessment Year : 2020-21)**

**Mr. Nilesh V. Mehta,**

B-902, RNA Royal Park,  
M.G. Road Kandivali (West),  
Maharashtra - 400067  
PAN : ADAPM1284H

..... Appellant

v/s

**AO, CPC**

**Circle – 42(1)(1)**

Room No.732, 7<sup>th</sup> Floor,  
Kautiya Bhavan, Bandra (E),  
Mumbai - 400051

..... Respondent

Assessee by : Shri Ajay Singh

Shri Akshay Pawar

Revenue by : Shri Paresh Deshpande, Sr.DR

Date of Hearing – 03/04/2025

Date of Order - 04/04/2025

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeal against the impugned order dated 29/03/2023, passed under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*learned CIT(A)*], for the assessment year 2020-21.

2. The present appeal is listed before us pursuant to order dated 06/02/2025 passed under section 254(2) of the Act in MA No. 275/Mum./2024, whereby the Co-ordinate Bench of Tribunal recalled its earlier ex parte order dated 28/08/2023 passed under section 254(1) of the Act and restored the appeal to its original position for a fresh hearing.

3. In this appeal, the assessee has raised the following grounds: –

"Ground No. 1: Disallowance of Rs. 7,65,951/- of employees contribution to PF u/s 36(1)(va). A typographical error.

*In law and on facts and circumstances of the case, the learned CIT(A) has erred in not allowing the claim of Rs.7,65,951/- arising on account of the typographical error by inadvertently showing the due date of payment one month earlier instead of statutory due date in Form CD of Tax Audit Report containing the calculation of disallowance u/s. 36(1)(va).*

"Ground No. 2: Non-adjudication of the ground relating to disallowance u/s 36(1)(va) on account of typographical error.

*In law and on facts and circumstances of the case, the learned CIT(A) has not considered and adjudicated the appellant ground and evidences for allowing the claim of Rs. 7,65,951/- on account of typographical error out of total disallowance of Rs. 8,40,462/- confirmed by him u/s 36(1)(va)."*

4. The solitary grievance of the assessee is against the disallowance of payment towards employees' contribution to the Provident Fund under section 36(1)(va) of the Act without considering the revised Tax Audit Report filed by the assessee.

5. The brief facts of the case are that the assessee is a proprietor of a concern engaged in the business of manufacturing and supplying pharmaceutical and medicinal chemicals. For the year under consideration, the assessee filed his return of income on 29/12/2020, declaring a total

income of ₹ 5,10,19,980. The return filed by the assessee was processed vide intimation dated 29/11/2021 issued under section 143(1) of the Act determining the total income at ₹ 5,18,80,330 after making disallowance amounting to ₹ 8,40,462 on account of delayed payment of employees' contribution to Provident Fund after the due date prescribed under the relevant Act.

6. The learned CIT(A), vide impugned order, upheld the disallowance made by the AO/CPC by relying on the decision of the Hon'ble Supreme Court in Checkmate Services (P) Ltd. v/s CIT, reported in [2022] 448 ITR 518 (SC). Being aggrieved, the assessee is in appeal before us.

7. During the hearing, the learned Authorised Representative ("*learned AR*") submitted that in the original Tax Audit Report filed by the assessee, there were some typographical errors in disclosing the due date of payment of employees' contribution to the Provident Fund and certain due dates were inadvertently shown one month earlier. The learned AR submitted that upon the same being noticed, the auditor of the assessee issued revised Annexure-20B, rectifying the due date for payment of employees' contribution to the Provident Fund. The learned AR submitted that if the correct due date of payment of employees' contribution to Provident Fund is considered, the disallowance to the extent of ₹ 7,65,951 made under section 36(1)(va) of the Act shall be deleted. The learned AR further submitted that the revised Tax Audit Report was also filed by the assessee before the learned CIT(A). However, the same was not considered, and the entire disallowance amounting to ₹ 8,40,462 made under section 36(1)(va) of the Act was upheld.

8. Having considered the submissions of the assessee and perusal of the material available on record, we find that vide letter dated 10/05/2022, the auditor of the assessee revised the information declared in Column-20(b) pertaining to employees' contribution to Provident Fund/ESIC and made the changes in respect of the due date for payment and actual date of payment on the basis that in the Tax Audit Report in Form 3 CD dated 28/12/2020 of the assessee, there were certain typographical errors. We find that vide its submission dated 15/03/2023 filed in response to the notice issued by the learned CIT(A) on 14/03/2023, the assessee filed the rectified annexure to the Tax Audit Report before the learned CIT(A). However, we find that the learned CIT(A), vide impugned order, without considering the assessee's submission, upheld the disallowance amounting to ₹ 8,40,462 made under section 36(1)(va) of the Act. As per the assessee, in the original Tax Audit Report, certain due dates pertaining to the payment of employees' contributions to the Provident Fund have been inadvertently shown one month earlier, and if the rectified annexure to the Tax Audit Report is considered, the aforesaid disallowance shall be reduced by ₹ 7,65,951. During the hearing, the learned Departmental Representative submitted that the rectified annexure to the Tax Audit Report needs verification. Therefore, in view of the facts and circumstances of the present case, we deem it appropriate to restore this issue to the file of the jurisdictional Assessing Officer for *de novo* adjudication after necessary verification of the details provided in the revised annexure to the Tax Audit Report and upon grant of adequate and reasonable opportunity of hearing to the assessee. With the above directions, the

impugned order is set aside, and the grounds raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 04/04/2025

**Sd/-  
VIKRAM SINGH YADAV  
ACCOUNTANT MEMBER**

**Sd/-  
SANDEEP SINGH KARHAIL  
JUDICIAL MEMBER**

**MUMBAI, DATED: 04/04/2025**

*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai