

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH 'SMC': AGRA**

**BEFORE
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.53/AGR/2025
(ASSESSMENT YEAR: 2018-19)

Mohd Rizwan Ansari, House No.49, AL-HAMD Colony, Post Officer-CDF, Anoopshahr Road, Aligarh-202001 (U.P.) PAN-AAWPA0210E	Vs.	Income Tax Officer, Ward-4(1)(3), Aligarh.
(Appellant)		(Respondent)

Assessee by	None
Department by	Shri Shailendra Srivastava. Sr. DR
Date of Hearing	19/05/2025
Date of Pronouncement	24/06/2025

ORDER

PER MANISH AGARWAL, AM:

This is an appeal filed by the assessee against the order of the Learned Addl./JCIT(Appeals)-6, Chennai in Appeal No. 10006/2017-18 for Assessment Year 2018-19 dated 31/12/2024 passed u/s 250 of the Income Act, 1961 ('the Act' for short) arising out of the order passed u/s 143(1) dated 08.01.2020.

2. Brief facts of the case are that assessee is a Govt. contractor runs business under proprietorship M/s R. R. Engg. Com. The return of income was filed on 15.10.2018 declaring total income of Rs.13,00,020/- which was processed vide order u/s 143(1) dated 08.01.2020 wherein CPC has disallowed delayed payment on account of employees contribution towards PF/ESI of Rs.55,62,245/-

3. Against such intimation order the assessee has preferred an appeal before ld. CIT(A) who vide impugned order has dismissed the appeal. Thus, the present appeal is filed before the Tribunal. Assessee in the grounds of appeal has claimed that the amount of employees contribution towards PF/ESI was made much before the filing of return and, therefore, no disallowance should be made u/s 36(1)(va) of the Act. He further submitted that this amount also includes the employer contribution towards PF/ESI and the figure mentioned in the audit report in column 20(b) has wrongly been stated at Rs.55,62,245/- which actually included amount of employees contribution and employer contribution both, thus, deduction to the extent of employer's contribution to such funds deserves to be allowed.

4. On the other hand, the Ld. Sr. DR supports the orders of the lower authorities and submits that the ld. CIT(A) has relied upon the judgment of Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd. vs. CIT-1 in Civil Appeal No.2833 of 2016 wherein the Hon'ble Apex Court had held that the payment of employees

contributions to PF/ESI is disallowable u/s 36(1)(va) of the Act, if the same is paid delayed as per respective Acts.

5. Heard both the parties. From the perusal of the records, it is seen that the instant case, CPC has disallowed sum of Rs.55,62,245/- being the amount reported in column 20(b) of the Tax Audit Report as “employees contribution to any fund and not paid before the due date prescribed under the relevant act being disallowable u/s 36(1)(va) of the Act. Before the AO, the assessee has failed to file any evidence with regard to the claim that this amount includes employer contribution also. Under these circumstances, we find no infirmity in the order of Ld. Addl./JCIT (Appeals) and dismissed the appeal of the assessee by placing reliance on the judgment of the Hon’ble Supreme Court in the case of Checkmate Services (supra) which has put the end to the dispute with respect to the delayed payment on employees contribution towards PF/ESI. With these findings, all the grounds taken by assessee are dismissed.

6. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 24.06.2025.

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 24.06.2025

PK/Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR