

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

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 990/DEL/2024 [A.Y. 2020-21]
ITA No. 991/DEL/2024 [A.Y. 2021-22]

Ganganagar Vehicles Pvt Ltd
BG-223, Sanjay Gandhi Transport Nagar
G.T. Road, Delhi

Vs. The I.T.O
Ward -10(1)
Delhi

PAN - AAGCG 4590 C

(Applicant)

(Respondent)

Assessee By : Shri Pratap Gupta, CA

Department By : Shri Rajesh Kumar Dhanesta, Sr. DR

Date of Hearing : 11.09.2025

Date of Pronouncement : 15.10.2025

ORDER

PER NAVEEN CHANDRA, A.M.:-

Both the above captioned separate appeals by the assessee are preferred against the order of the Id. CIT(A)-2, Chennai dated 25.01.2024 pertaining to A.Ys 2020-21 and 2021-22 respectively.

2. Since both the captioned appeals were heard together and pertain to same assessee, they are disposed of by this common order for the

sake of convenience and brevity. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

3. The sum and substance of the first grievance of the assessee in both the A.Ys under consideration is that the ld. CIT(A) erred in confirming the addition on account of delay in deposit of PF/ESIC beyond due date u/s 143(1).

4. The main argument of the ld. counsel for the assessee is that the processing has been made before the order of the Hon'ble Supreme Court in favour of the Revenue and against the assessee by the decision in the case of *Checkmate Services [Pvt] Ltd* 448 ITR 518. It was a highly debatable issue and, therefore, cannot be done u/s 143(1) by the CPC.

5. Per contra, the ld. DR relied upon the orders of Assessing Officer and the decision in the case of *Checkmate Services* [supra] rendered by the Hon'ble Supreme Court.

6. We have heard the rival submissions and have perused the relevant material on record. We find that this issue of disallowance of PF/ESIC is no more res integra as the quarrel is now settled by the decision of the Hon'ble Supreme Court in favour of the Revenue and against the assessee by the decision in the case of *Checkmate Services [Pvt] Ltd*

[supra]. The assessee quarrel is that the CPC is not empowered to disallow the same u/s 143(1) of the Act. This issue is also decided against the assessee in the case of *Savleen Kaur vs. Income-tax officer* [2023] 147 taxmann.com 402 (Delhi - Trib.)/[2023] 199 ITD 437 (Delhi - Trib.) [09-01-2023] where the coordinate bench of Delhi ITAT has held that disallowance u/s 143(1) of delayed payment of PF/ESIC is valid, as under:

10. In our understanding, the aforementioned binding observations of the Hon'ble Supreme Court cannot be brushed aside simply because the decision was rendered in the context where the assessment was framed u/s 143(3) and not u/s 143(1)(a) of the Act. In our considered opinion, the decision of the Hon'ble Supreme Court is in the context of allowability of deposit of PF/ESI after due date specified in the relevant Act.

11. The Hon'ble Supreme Court has categorically held that the employees' contribution deposited after respective due date cannot be allowed as deduction, and, therefore, it would be incorrect to say that the decision of the Hon'ble Supreme Court is applicable only in the case of an assessment framed u/s 143(3) of the Act. In our considered view, the ratio decidendi is equally applicable for the intimation framed u/s 143(1) of the Act.

12. Now coming to the challenge that the impugned adjustment is beyond the powers of the CPC Bengaluru u/s 143(1) of the Act is also not correct. In light of the aforementioned decision of the Hon'ble Supreme Court [supra], as mentioned elsewhere, it cannot be stated that the impugned adjustment u/s 143(1) of the Act is beyond the powers of the CPC, Bengaluru.

7. The aforesaid decision distinguished the case of *P.R. Packaging Service v. Asstt. CIT* [2023] 148 taxmann.com 153 (Mum.-Trib.) where the Mumbai Tribunal deleted the disallowance u/s. 36(1)(va) of the Act made in the intimation u/s. 143(1) of the Act on a finding that such disallowance is beyond the scope of section 143(1)(a) of the Act, albeit the Tribunal noted that it is conscious of the fact that the issue on merits is decided against the assessee in *Checkmate Services*(supra). It was

further held that the decision of Supreme Court was rendered in the context of section 143(3) of the Act and not section 143(1) of the Act. The Delhi Tribunal *in Savleen Kaur vs. Income-tax officer*, (supra) however, distinguished the above judgment on a finding that Mumbai Tribunal has simply relied on another coordinate bench decision which was decided in the absence of the binding decision of Supreme Court in *Checkmate Services* (supra) *i.e.*, the coordinate bench decision is prior to the decision of Supreme Court. It was further held that if any narrow interpretation is given to the decision of Supreme Court stating that it was rendered in context of only 143(3), such interpretation will defeat the very purpose of the intention of legislature and the Supreme Court decision. It was therefore held that the ratio laid down in the SC decision is equally applicable to intimation u/s. 143(1) and assessment order u/s. 143(3) of the Act.

8. Similarly, the Id ITAT Pune Bench in the case of *Surendra Devid Thokal Vs ITO* (ITAT Pune) has confirmed the CPC adjustment of Employee contributions for PF/ESI delayed payments as not deductible following the Supreme Court in *Checkmate Services*. The Ahmedabad Tax Tribunal in the case of *M/s. Checkmate Services Pvt. Ltd.* (I.T.A. No. 69/Ahd/2023) have held that the decision of the Hon'ble Supreme Court in the case of *Checkmate Services Private Limited* is declaration

of law which is applicable to all proceedings whether it is scrutiny assessment under Section 143(3) of the IT Act or the proceeding of processing tax return under Section 143(1) of the IT Act. Following the above decision, we hold that the adjustment u/s 143(1) made on account of delayed payment of PF/ESIC is legally justified and sustainable. In that view of the matter, we dismiss ground No. 1 in both the appeals.

9. The only other issue vide Ground No. 2 in both the A.Ys under consideration is the confirmation of addition/adjustment u/s 143(1) of the Act on account of depreciation which was outside the purview of adjustment u/s 143(1) of the Act and powers of DCIT(CPC).

10. At the very outset, the ld. counsel for the assessee submitted that the assessee itself has made adjustment in the computation of income by way of adjusting depreciation claimed which is at page 154 of the Paper Book.

11. Per contra, the ld. DR relied on the order of the Assessing Officer.

12. Having heard the rival submissions and perusing the relevant material on record, we find that the CPC has made adjustment on account of depreciation (ICDS) claim made in the Audit Report as per clause 13(e) of the Tax Audit Report on account of ICDS. We find that the assessee has in its computation of Income statement suo-motto

disallowed the said depreciation amounting to Rs 1,78,38,031/-. The CIT(A), though has deleted the said adjustment but has added the profit of Rs 12,51,181/- on account of deviation from ICDS. We are of the considered opinion that making adjustment on account of alleged deviation in profit resulting from claim of depreciation, while processing the return of income was outside the purview and powers of the CPC in AY 2020-21 & A.Y 2021-22. We are therefore of the considered view that the ld. CIT(A) was not justified in confirming the addition u/s 143(1) of the Act. This Ground 2 is allowed in both the years.

13. In the result, appeals of assessee in ITA Nos. 990 and 991/DEL/2024 are partly allowed.

The order is pronounced in the open court on 15.10.2025.

Sd/-

[MADHUMITA ROY]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 15th October, 2025.

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	.
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial)</i>	
11.	<i>The date on which the file goes for xerox</i>	
12.	<i>The date on which the file goes for endorsement</i>	
13.	<i>The date on which the file goes to the Superintendent for checking</i>	
14.	<i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i>	
15.	<i>Date on which the file goes to the dispatch section</i>	
16.	<i>Date of Dispatch of the Order</i>	