आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench, Visakhapatnam

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं **/ITA No.288/Viz/2024**
(निर्धारण वर्ष/Assessment Year:2014-15)

Ranar Agrochem Limited, Visakhapatnam. PAN: AACCP0372M	Vs.	Deputy Commissioner of Income Tax, Visakhapatnam.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri M. Madhusudan, CA (Hybrid)	
राजस्व द्वारा/Revenue by:	Sri Jenardhanan V, CIT-DR	
सुनवाई की तारीख/Date of Hearing:	14/10/2025	
घोषणा की तारीख/Date of Pronouncement:	31/10/2025	

आदेश / **ORDER**

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee company is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 15/05/2024, which in turn arises from the order passed by the Assessing Officer (for short, "A.O.") under Section 143(3) of the Income Tax Act, 1961 (for short "the Act") dated 30/12/2016 for A.Y.

2014-15. The assessee company has assailed the impugned order on the following grounds of appeal before us:

"1. The order under Sec.250, dt. 15.5.2024 passed by the CITIA), NFAC, Delhi for the A.Y. 2014-15 may be erroneous both in law and also on facts of the case.

2. In the facts and circumstances of the case vis-a-vis legal background recorded in the annexed Statement of facts, and in the context of judicial precedents existed on the issue read with the AMENDED PROVISIONS contained in Sec.36(1) (va) of the Act, it may kindly be noticed that the appellant assessee may be entitled for the claim of deduction of Rs.2,32,202/-as provided by Sec. 36(1)(va) of the Act;

3. In the facts and circumstances of the case, it is submitted that the assessee may be entitled for deduction of Rs.40,000/- as per the provisions contained in Sec.40(a)(ia) of the act, taking cognizance of the fact that the recipient filed his Rot incorporating the impugned professional fees/audit fee to the aforesaid extent and hence it is requested that the relief sought for may be allowed.

4. In the facts and circumstances of the case reported in the annexed Statement of Facts, it is humbly requested that the addition of Rs.3,47,97,000/- made under Sec.68 r.w.s 115BBE of the Act may be ordered to be deleted, taking into account the full-fledged confirmation letters filed by the assessee the remaining 41 cases also duly establishing their identity genuineness and also credit worthiness of those loan creditors with a particular emphasis to the fact that all those loan transactions were routed through BANKING CHANNEL:

5. Also considering the factual and legal and legal position recorded in depth in the annexed Statement of facts, it is humbly requested that the claim for SET OFF of depreciation of Rs.6,63,63,807/-against the addition under Sec.68 r.w.s. 115BBE(2) of the Act may be allowed in the interest of equity the assessed income of Rs.3,47,97,000/- which also included and justice and also to be in conformity with enacted law and also judge made law.

6. In the facts and circumstances of the case, recorded in the annexed Statement of facts and the factual and legal background established by the record, it is humbly prayed that the reliefs sought for above, may be allowed, in accordance with law.

7. For these reasons and other reasons which may be advanced during the course of hearing of appeal, it is humbly requested that the appeal petition may be adjudicated on its merits and in consonance with law."

2. Succinctly stated, the assessee company (formerly known as M/s. Pratyusha Chemicals and Fertilizers Ltd.), had filed its return of income for the AY 2014-15 on 29/11/2014, declaring an income of Rs. NIL after set off of brought forward losses of Rs. 69,43,433/-. Subsequently, the case of the assessee company was selected for scrutiny assessment under section 143(2) of the Act.

3. The AO vide his order passed under section 143(3) of the Act, dated 30/12/2016, made certain additions/disallowances to the returned income of the assessee company, viz. (i) disallowance under section 36(1)(va) of the assessee's claim for deduction of the delayed deposit of the employees share of contribution towards PF and ESI: Rs. 2,32,202/-; (ii) disallowance under section 40(a)(ia) of the assessee's claim for deduction of provision towards tax audit expenses: Rs. 40,000/-; (iii) addition of the unreconciled interest income as reflected in Form No. 26AS vis-à-vis books of account of Rs. 1,35,680/-; and (iv) addition of the unsecured loans as unexplained cash credits under section 68 of the Act: Rs. 3,47,97,000/-.

4. Aggrieved, the assessee company carried the matter in appeal before the CIT(A). Although, the CIT(A) directed the AO to consider the assessee's claim that the unreconciled receipt of Rs. 1,35,680/- was accounted for in the next financial year, but upheld the remaining additions/disallowances that were made by him. For the sake of clarity, the observations of the CIT(A) are culled out as under:

> "5 Determination and Decision
>
> 5.1 I have carefully gone through the submission of the Appellant. I have also gone through the records and facts of the case.
>
> 5.2 facts. Ground No. 1 The order the A.O is contrary to Law and facts of the
>
> This ground appeal is general in nature
>
> 5.3 Ground No. 2 pertains to disallowances u/s. 40a 40a(la) of the Act.
>
> 5.3.1 It is noticed that during the year there has been delay in remittance of employees' share of PF & ESIC amounting to Rs. 2,32,202/-. In this regard, on the legal issue and contention of the appellant that such disallowances of late payment of ESI/PF u/s 36(1)(va) is not permissible and that is ought to have been allowed on payment basis u/s 438 at par with employers contribution to PF/ESI in view of the judicial pronouncements relied on, the issue is decided as follows after a careful consideration of the facts of the case and the position of law on the issue.
>
> 5.3.2 It is observed that the controversy in the present appeal relates to allowance of any sum received by the appellant as an employer from his employees for the purpose of PF/ESIC, if it is paid beyond the due date as mentioned in section 36(1)(va) of the Act. While resolving the issue, the AO has considered the provisions of section 36 (1)(va) while the appellant has considered the provisions of section 438 of the Act.
>
> 5.3.3 Section 36(1)(va) and section 43B(6) operate in different fields, Le., former takes care of employee's contribution and later the employer's contribution. Therefore, an appellant is entitled to get benefit of deduction under section 438(6) as provided under the proviso thereto only with regard to

portion of amount paid by the employer to contributory fund. So far as the employee's contribution is concemed, the assessee is entitled to get deduction of amounts as provided under section 36(1)(va) only if amounts so received from the employee is credited in specified account within due date as provided under relevant statute.

5.3.4 From the written submission mentioned above, it is clear that the appellant has considered the provisions of section 43B also with respect to employee's contribution for PF/ESIC, which is otherwise applicable to the employer's contribution. The two provisions prior to amendments made by Finance Act 2021 are reproduced as under-

Section 43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of--

(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, Provided that nothing contained in this section shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.

Section 36(1)(va): any sum received by the assessee from any of his employees to which the provisions of sub- clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation.--For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued there under or under any standing order, award, contract of service or otherwise;

5.3.5 From the provisions of both the sections, it is clear that the "due date" is defined differently under 43B and 36(1)(va). In my considered opinion, the appellant cannot import the due date as mentioned under section 43B to the provisions of section 36(1)(va), when the same is expressed in clear words. As per provisions of section 36(1)(va), the "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under the relevant Act, rule, order or notification issued there under i.e., mentioned in such Act, rule, order or notification, while as per section 438, the due date refers to the date for filing of the return under section 139(1).

5.3.6 This distinction has also been spell out by the CBDT Circular No. 22/2015 as under.

CIRCULAR NO.22/2015

[F.NO.279/MISC/140/2015-ITJJ, DATED 17-12-2015

1. "As per section 43B of the Act certain deductions are admissible only on payment basis. It is observed by the Board that some field officers disallow employer's contributions to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, by invoking the provisions of section 43B of the Act, if it has been paid after the 'due dates', as per the relevant Acts.

2. The matter has been examined in light of the judicial decisions on this issue. In the case of Commissioner vs. Alom Extrusions Ltd, [2009] 185 TAXMAN 416 (SC), the Apex Court held that the amendments made in section 438 of the Act i.e. deletion of second proviso and amendment in the first proviso, being curative in nature are retrospectively applicable from 1-4-1988. It further held that by deleting the second proviso to section 438 of the Act and amending the first proviso, the contribution to welfare funds have been brought at par with the other duty, cess, fee, etc. Thus, the proviso is equally applicable to the welfare funds also. Therefore the deduction is allowable to the employer assessee if he deposits the contributions to welfare funds on or before the 'due date of filing of retum of income.

3. Accordingly, w.e.f. 1.4.1988, the settled position is that if the assessee deposits any sum payable by it by way of tax, duty, cess or fee by whatever name called under any law for the time being in force, or any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, on or before the 'due date' applicable in his case for furnishing the return of income under section 139(1) of the Act, no disallowance can be made under section 43B of the Act.

4. In the light of the Supreme Court's decision in the matter, the issue is well settled. Accordingly. the Board has decided that no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, on this ground before Courts/Tribunals may be withdrawn/not pressed upon. This may be brought to the notice of all concerned

5. It is clarified that this Circular does not apply to claim of deduction relating to employee's contribution to welfare funds which are governed by section 36(1)(va) of the IT Act". INCOM

5.3.7 The Memorandum Explaining the Provisions of "Finance Bill, 2021" are extracted as under-

"Section 438 specifies the list of deductions that are admissible under the Act only upon their actual payment. Employer's contribution is covered in clause (b) of section 43B. According to it, if any sum towards employer's contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees is actually paid by the assessee on or before the due date for fumishing the return of the income under sub-section (1) of section 139. assessee would be entitled to deduction under section 438 and such deduction would be admissible for the accounting year. This provision does not cover employee contribution referred to in clause (va) of sub-section (1) of section 36 of the Act.

Though section 43B of the Act covers only employer's contribution and does not cover employee contribution, some courts have applied the provision of section 43B on employee contribution as well. There is a distinction between employer contribution and employee's contribution towards welfare fund. It may be noted that employee's contribution towards welfare funds is a mechanism to ensure the compliance by the employers of the labour welfare laws. Hence, it needs to be stressed that the employer's contribution towards welfare funds such as ESI and PF needs to be clearly distinguished from the employee's contribution towards welfare funds. Employee's contribution is employee own money and the employer deposits this contribution on behalf of the employee in fiduciary capacity. By late deposit of employee contribution, the employers get unjustly enriched by keeping the money belonging to the employees. Clause (va) of sub-section (1) of Section 36 of the Act was inserted to the Act vide Finance Act 1987 as a measures of ponalizing employers who mis-utilize employee's contributions."

5.3.8 In this regard, Finance Act 2021, has made the following amendments:

In section 36 of the Income-tax Act, in sub-section (1), in clause (va), the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:-

Explanation 2-For the removal of doubts, it is hereby clarified that the provisions of section 438 shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause;

In section 438 of the Income-tax Act, after Explanation 4, the following Explanation shall be inserted, namely:-

"Explanation 5.-For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his

employees to which the provisions of sub-clause (x) of clause (24) of section 2 applies."

5.3.9 The Finance Act 2021 has cleared the aspect related to the operation of these clauses also. The wordings of the captioned Explanation clearly assert that the clarification will apply to earlier Assessment years also as the newly added Explanation 2 below Section 36 clearly uses the word that "it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the "due date" under this clause. Similarly, in the Explanation 5 inserted below 43B also, the words used are "it is hereby clarified that the provisions of this section shall not apply and shall be deemed never to have been applied.....

From the wordings above, it is also clear that the above clarificatory amendment brought in by the Finance Act, 2021 applies to the issue in the instant appeal also. While in the Explanatory Memorandum to the Finance Bill, it was stated that "these amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years", but the said lines are not there in the Finance Act, 2021, which has been finally passed by the Parliament and received Presidential Assent.

5.3.10 In the backdrop of the above, it is observed that, the issue at hand is in respect of payments deposited belatedly by the employers, towards the employees contribution, towards EPF & ESI. The question involved is whether the appellant assessee is entitled to deduction of such belated deposit u/s. 36(1)(va) r.w.s. sec.43B of the I.T. Act, 1961. The said issue has recently been decided by the Hon'ble Supreme Court in the case of Checkmate services Pvt. Ltd. v/s CIT-1 in civil appeal No.2833 of 2016. The Hon.ble Supreme Court has decided vide order dated 12th October, 2022 that when Parliament introduced sec. 43B at that point of time there was no question of employees' contribution been considered as part of the employers earning. On the application of the original principal of law it could have been treated only as receipts not amounting to income. When parliament introduce sec. 36(1)(va) (from 1988-89 onwards) and simultaneously inserted the second proviso of sec.438, it intention was not to treat the disparate nature of the amounts, similarly. The second proviso to sec.438 was introduced to ensure timely payment by the employer to the concerned funds (EPF, EIS etc.) and avoid the mischief of the employees retaining amount for long period. Sec.2(24)(x) too deems amount received from the employees as income- it is the character of the amount that the important. This, amount retained by the employer from

out of employees' income by way of deduction etc. were treated as income in the hands of the employer. The other important features is that this distinction between the employers contribution ((sec.36(1)(iv)) and employees contribution required to be deposited by the employer (sec.36(1)(va)) was maintained. On the other hand sec. 438 covers all deduction that are permissible as expenditures or out goings forming part of assessees liability. These includes liabilities such as tax liability, cess duties etc. Thus, timely payment of these alone entitled an assessee to the benefit of deduction from the total income. That means actual payment were necessary pre condition for allowing the expenditure. The Hon'ble Supreme Court has held that it is an essential condition for the deduction that such amounts are deposited on or before the due date as per the respective acts. It is upon deposits, in terms of those enactments and on or before the due dates mandated by under such concerned law, that the amount could be treated as a deduction. On the basis of the aforementioned reasoning the Hon'ble Supreme Court held that there was no infirmity in the approach of the Gujarat High & Kerala High Court that upheld the revenues view and the decision of the other High Courts that held the contrary view did not lay down the correct law.

5.3.11 The above decision has once again confirmed that the deduction are to be granted only when the conditions which govern them are strictly complied with. That is taxing statutes are to be strictly construed. The above decision has also distinguished the case of Alom Extrutions ((2010) 1 SCC 489) as it did not consider the fact of introduction of sec. 2(24)(x) and other provision of the Act. COME TAX DEPART

5.3.12 The following portion of the judgment brings out the crux of the matter whereby the Hon'ble Supreme court has distinguished the money held in trust with the employers.- as is the case of amounts held of employees contribution towards EPF, ESI by their employers:-

"54..... That, however, cannot apply in the case of amounts which are held in trust, as it is in the case of employees' contribution-which are deducted from their income. They are not part of the assessee employer's income, nor are they heads of deduction per se in the form of statutory pay out. They are others' income, monies, only deemed to be income, with the object of ensuring that they are paid within the due date specified in the particular law. They have to be deposited in terms of such welfare enactments. It is upon deposit, in terms of those enactments and on or before the due dates mandated by such concerned law, that the amount which is otherwise retained, and deemed an income, is treated as a deduction. Thus, it is an essential condition for the deduction that such amounts are deposited on or

before the due date. If such interpretation were to be adopted, the non-obstante clause under section 43B or anything contained in that provision would not absolve the assessee from its liability to deposit the employee's contribution on or before the due date as a condition for deduction.

55. In the light of the above reasoning, this court is of the opinion that there is no infirmity in the approach of the impugned judgment. The decisions of the other High Courts, holding to the contrary, do not lay down the correct law. For these reasons, this court does not find any reason to interfere with the impugned judgment. The appeals are accordingly dismissed."

5.3.13 Respectfully following the above judgement of the Hon'ble Supreme Court vide order dated 12th October, 2022 in Civil Appeal No. 2833 of 2016 in the cases of Checkmate services Pvt. Ltd v/s CIT-1 in civil appeal No.2833 of 2016, in the more recent judgement of the Hon'ble ITAT, A-Bench, Chennai vide order dated 04th November, 2022 in the bunch of appeals filed by the Appellants under ITA No. 789/Chny/2022, ITA No. 813/Chny/2022, ITA No. 788/Chny/2022 and ITA No. 756/Chny/2022, the matter has been decided in the favour of the Revenue and the ITAT held as under :-

7. We find that the provisions of Section 2(24) enumerate different components of income. The income as defined therein includes any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees. It is thus clear that as soon as the Employer receives any contribution from its employees towards provident fund or ESI by way of deduction or otherwise, then the same is treated as income of the assessee. If the assessee deposit the same as per the mandate of Sec. 36(1)(va), the deduction of the same is allowed to the assessee otherwise the right to claim the deduction is lost forever. In other words, the contribution is first treated as deemed income of the assessee and thereafter, the deduction of the same is allowed to the assessee if the conditions of Sec.36(1)(va) are met. The CPC, as is evident, has denied this deduction to the assessee since the assessee did not fulfil the mandate of Sec.36(1)(va). It could also be seen that this is not an increase in income but disallowance of expenditure, the adjustment of which is covered u/s 143(1)(a)(iv) which provide that the disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return could be made while processing the return of income. The amendment made w.e.f. 01.04.2021 by insertion of words increase in income would have no impact on such disallowance since it is only a disallowance of expenditure and the revenue is very well entitled to make such an adjustment u/s 143(1)(a)(iv).

8. The impugned adjustment, in our opinion, would also fall u/s 143(1)(a)(ii) since it is an incorrect claim which is apparent from any information in the return. The adjustment made by CPC flows from reporting made by Tax Auditor in Tax Audit Report in Form 3CD. As per statutory mandate, the assessee is required by law to get its accounts audited u/s 44AB if its tumover crosses threshold turmover. The purpose of the audit is to enable the revenue to make correct computation of assessee's income. A proper audit would, inter-alia, ensure that the claims for deduction are correctly made. The report is required to be furnished by the assessee along with return of income to enable revenue to make correct computation of income. The reporting made therein could certainly be available to CPC to make the adjustment of defaults reported therein since the same would be apparent from information contained in the return. As noted earlier, the contribution is first treated as income of the assessee and thereafter, the deduction of the same has to be claimed by the assessee. Therefore, the columns in the Profit & Loss account in the return of income has to be filled in this manner only le.. the contribution is to be first added to the income of the assessee and thereafter, the deduction of the same would be claimed by the assessee. In other words, the assessee would first add the same to its income and thereafter, it would claim deduction after crossing the hurdle of Sec.36(1)(va). Since the claim made by the assessee is inconsistent with the reporting made by Tax Auditor, it was an incorrect claim which CPC has rightly disallowed.

9. Another argument is that the debatable issues could not be subject matter of adjustment u/s 143(1). However, so far as the revenue is concerned, this issue is not debatable for the revenue. The revenue has always maintained a position that the claim is allowable to assessee only when the contribution is deposited as per the mandate of Sec. 36(1) (vα) otherwise not. Therefore, it is incorrect to say that the issue is debatable one. The Hon'ble Supreme Court has upheld the stand of the revenue"

5.3.14 As the issue has been finally decided by the Hon'ble Supreme Court, therefore the case laws quoted by the appellant are not relevant at all and the view of the Hon'ble Apex Court will hold and therefore the adjustment made u/s 143(1)(a)(iv) by applying provisions of Section 36(1)(va) read with Section 2(24)(x) is found to be valid and proper in fact and law. Considering the totality of the facts and circumstances of the case, the disallowance of Rs. 2,32,202/- on the above account is confirmed and the ground no. 1 of the appellant is dismissed.

5.4 Ground No. 3 relates to addition of Rs. 40,000/- representing auditor's fees by applying the provisions u/s. 40(a)(ia) of the Act.

During the year, the appellant made provision of Rs. 40,000/- towards tax audit expenses to Rao & Kumar on 31.03.2024 but failed to deduct tax at source on the date of crediting the amount to their ledger account. The appellant company also failed to remit the corresponding TDS even before the due date of filing return of income u/s. 139(1) of the Act. The A.O disallowed Rs. 40,000/-u/s. 40(a)(ia) of the Act by stating that the provision which is debited to P&L a/c was not an allowance expenditure for the year consideration.

Submission of the appellant was perused which is devoid of any merits. There is no reason to interfere with the findings of the A.O. Ground of appeal is dismissed.

5.5 Ground No. 4 pertains to addition of Rs. 1,35,680/- representing unreconciled receipts under the head 'income from other sources

It is noted that some differences were seen while reconciling the receipts reflected in Form 26AS and the books of Account. 1,35,680/- which was omitted to be shown in the books was assessed to tax The difference of Rs. under the head 'Income from other sources by the A.O.

Submission of the appellant was perused. Though the appellant claims to have accounted in next F.Y, there was no submission before me. In view of the natural justice, A.O is directed to examine this issue, only on receipt of clear submission/evidence from appellant, and accordingly decide. This ground of appeal is partly allowed.

5.6 Ground No. 5 relates to addition of Rs. 3,47,97,000/- applying the provisions u/s. 68 of the Act.

During the year the appellant company had introduced unsecured loans aggregating to Rs. 6,58,84,000/-. Out of the above, the appellant could satisfactorily prove loans to the extent of Rs.3.10,87,000/-. proper evidence to prove the remaining unsecured loans amounting to Rs. In the absence of 3,47,97,000/- the A.O held the same as unexplained cash credits u/s. 68 of the Act. The appellant submitted that the amounts were added representing the unsecured loans accepted by it and they are capital receipts only. Further, the identity, genuineness of the transactions were proved by way of giving confirmation letters to the A.O.

In this regard, it is noted that the appellant could not produce any kind of documentary evidence to prove the unsecured loans of Rs.3.47.97.000/- either during the assessment proceedings or during the appellate procedings. Therefore, the addition made by the AO of Rs.3,47,97,000/- made u/s. 68 of the Act were not based on assumptions and presumptions and was made only after the appellant

could not discharge the onus cast upon him to produce the evidences. Hence, the addition made of Rs. 3,47,97,000/- on account of unexplained cash credits u/s, 68 of the Act is hereby confirmed.

5.7 Ground No. 6 relates to grounds that may be urged at the time of appeal hearing

The appellant has filed additional ground of appeal and the same has been admitted.

5.8 Additional ground of appeal relates to not setting off of the absorbed depreciation loss allowed to be carried forward against the income assessed to tax

This additional ground raised by the appellant is not in agreement with the provisions of Section 68 r.w.s 1158BE of the Act. The plain reading of the Section 115BBE(2) denies any set off of any loss to be allowed if the addition is in the nature of Section 68 of the Act. This ground is dismissed.

6 In the result the appeal is partly allowed."

5. The assessee company being aggrieved by the order of the CIT(A) has carried the matter in appeal before us.

6. We have heard the Learned Authorized Representatives of both the parties, perused the orders of the lower authorities and considered the material available on record.

7. Sri M. Madhusudan, Chartered Accountant, the Learned Authorized Representative (for short "Ld. AR") for the assessee company, at the threshold of hearing of the appeal, submitted that

the assessee company has moved an application for admission of certain documents as additional evidence U/rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963. Elaborating further, the Ld. AR submitted that as the assessee company in the course of the assessment proceedings due to paucity of the time and other genuine constraints which were beyond its control was unable to place on record the additional documentary evidences to substantiate the authenticity of the cash credits, which, however in the meantime have been obtained, therefore, the same in all fairness be admitted. The Ld. AR submitted that the additional documentary evidences which are filed before the Tribunal comprises of, viz., confirmation letters, PAN details, Aadhar details, income tax returns, bank statements of the creditors. The Ld. AR submitted that as the aforesaid documents will have a strong bearing on the adjudication of the issues involved in the present appeal, therefore, the same in all fairness be admitted. The Ld. AR had thereafter taken us through the aforesaid documentary evidence placed at Page Nos. 102-334 of the APB.

8. Per contra, Sri Jenardhanan V, Learned Commissioner of Income Tax-Departmental Representative (for short, “Ld. CIT-DR”) relied upon the orders of the authorities below. The Ld. CIT-DR vehemently objected to the admission of the additional documentary evidence that were filed by the assessee company U/rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963. Elaborating on his contention, the Ld. CIT-DR submitted that as the assessee company had sought for admission of the aforementioned documents for the first time before ethe Tribunal after a lapse of about eight years (approx.) from the date on which the assessment was framed by the AO vide his order passed under section 143(3) of the Act, dated 30/12/2016, thus, the same did not merit admission. Elaborating on his contention, the CIT-DR submitted that as substantial time period of eight years had elapsed since the culmination of the assessment, therefore, as on date if any of the lender who had confirmed to have advanced the subject loan to the assessee company is found to have given the same out of his unexplained sources, then the department due to the lapse of such substantial time period cannot proceed against the any such lender and will be rendered remediless. The Ld. AR submitted

that the admission of the subject additional evidence will lead to a loss to the Government exchequer, wherein an unexplained money routed in the garb of unverified loan transactions would go untaxed.

9. We have thoughtfully considered the contentions of the Learned Authorized Representatives of both the parties on the issue of admission of the additional documentary evidence for which liberty has been sought by the assessee appellant.

10. Admittedly, we find that the assessee company had vide its letter dated 09/10/2025 filed an application for admission of the additional documentary evidence which comprises of confirmation letters of the lenders (40 loan creditors), details of the loan creditors, statements containing the details of receipts and payments of credits along with the particulars of the creditors, bank statements of the creditors etc., which runs over more than 232 pages i.e., Page No. 102-234 of the APB. At this stage, it would be relevant to point out that not only the assessee company had failed to place on record the aforementioned documents in the course of assessment proceedings before the AO or as an additional evidence U/rule 46A before the CIT(A), but also had filed the same

before us after a lapse of a period of one and half years from the date of filing of the appeal.

11. We have given a thoughtful consideration and are unable to persuade ourselves to admit the additional documentary evidence that has been filed by the assessee company before us for more than one reason. At the threshold, we find substance in the Ld. CIT-DR's contention that admission of the additional evidence which is in the nature of confirmations of the creditors, bank accounts etc., after a substantial delay of eight and half years i not only involves inordinate delay, but also the department because of the lapse of the substantial time period will be rendered remediless to verify the authenticity of the said transactions and proceed against the concerned creditors if it is found that they had advanced the amounts to the assessee company out of their unaccounted or unexplained income. Apart from that, we find that the documentary evidence that has been filed before us i.e., confirmation letters, copies of bank accounts etc. of the creditors also do not inspire any confidence much the less irrefutably substantiate the authenticity of the subject loan transactions. We say so, for the reason that on a

summary perusal of some of the confirmations it transpires that though the creditors had confirmed to have advanced the unsecured loans to the assessee company, but a perusal of their bank account reveals that immediately prior to advancing of the said loan, i.e., either on the same date or on a nearby date there was a cash deposit of an equivalent amount in the bank account of the said creditor. Apart from that, we find that in majority of the cases the respective creditor had though claimed that the amount advanced by them was sourced out of their agricultural income, but strangely nothing is borne on record which would substantiate the veracity of their claim regarding the said source of income. Our aforesaid view on an exemplary basis can safely be gathered by referring to the confirmations of some of the creditors, viz., (i). Sri Badeti Venkateswara Rao S/o. Subbanna Badeti, Page 115-119 of APB; (ii) Sri D. Venkateswara Rao S/o. Achayya, Page 120-126 of APB. Although, in case of some of the lenders, the copies of the Aadhar cards have been provided but there is nothing available on record which would substantiate to hilt their creditworthiness to advance the subject loans to the assessee company. We thus, in terms of our aforesaid observations and for the aforementioned

reasons are unable to persuade ourselves to admit the additional documentary evidence running into 232 Pages as had been filed by the assessee company after a substantial lapse of a period of 8 ½ years from the date of framing of the assessment in its case by the AO vide his order passed under section 143(3) of the Act, dated 30/12/2016. Accordingly, the application filed by the assessee company for admission of additional documentary evidence is rejected.

12. We shall now take up the specific issues based on which the assessee company has assailed the additions/disallowances made by the AO, which thereafter had been sustained by the CIT(A).

13. Apropos, the disallowance of the delayed deposit of the employees' share of contribution towards ESI/PF made by the AO under section 36(1)(va) r.w.s 2(24)(x) of the Act, we find that as the issue as on date is no more res integra pursuant to the judgment of the **Hon'ble Supreme Court** in the case of **Checkmate Services Pvt Ltd Vs. Commissioner of Income Tax-I, Civil Appeal No. 2833 of 2016, dated 12/10/2022**, therefore, no infirmity emerges

from the orders of the authorities below who have rightly made/sustained the said addition.

14. We shall now deal with the disallowance of the assessee's claim for deduction of provision towards tax audit expenses of Rs. 40,000/- made by the AO under section 40(a)(ia) of the Act. We are of the view that as the assessee company had not placed on record any material which would substantiate that the respective payees have paid the corresponding tax on the aforesaid amount based on which it is not to be treated as an assessee in default under section 201(1) of the Act, therefore, we find no reason for dislodging the disallowance made by the AO.

15. We shall now deal with the Ld. AR's contention that the authorities below had erred in making/sustaining the addition of Rs. 3,47,97,000/- under section 68 of the Act. On a perusal of the record, we find that the assessee company had during the subject year received unsecured loans aggregating to Rs. 6,58,84,000/-. On being called upon to substantiate the genuineness of the loan transactions, the assessee company had submitted the confirmation letters along with supporting documentary evidence

with respect to seven lenders (out of 48 lenders) for an amount of Rs. 3,10,87,000/- that was received by the assessee company. The AO, observing that the assessee company had substantiated the authenticity of the loan transactions pertaining to the said seven persons, accepted the same. At the same time, the AO observed that the assessee company had failed to produce either complete addresses or confirmation letters from eight parties, from whom loans aggregating to Rs. 74.50 lacs were stated to have been received, as under:

S.No.	Name of the person (unsecured loan party)	Amount (Rs.)
1	Badeti Venkateswara Rao	5,00,000
2	D Venkateswara Rao	10,00,000
3	Pragathi Poultry Feeds and Needs	10,00,000
4	Sri Lakshmi Enterprises, VZM	5,00,000
5	Sri Satya Traders Chipurupalli VZM	7,00,000
6	Karuturi Subrahmanyam	5,00,000
7	Nalluri Subba Rao	7,00,000
8	Karuturi Kasi Visweswara Rao	25,50,000
	TOTAL	74,50,000

Apropos, the remaining thirty-three persons (out of 48 persons) from whom the loans aggregating to Rs.2,73,47,000/- were stated to have been received, the assessee company had only produced

their confirmation letters without any supporting documents, i.e., documents pertaining to their return filing status, source of income or genuineness of the transactions. Accordingly, the AO based on the aforesaid facts held the loans aggregating to Rs. 3,47,97,000/- viz., (i) loans from aforesaid seven parties: Rs. 74,50,000/-; and (ii)j loans from the remaining thirty-three persons: Rs.2,73,47,000/- as unexplained cash credits under section 68 of the Act.

16. We find on a perusal of the orders of the authorities below that as the assessee company had failed to substantiate the identity and creditworthiness of the aforementioned 40 lenders from whom loans amounting to Rs. 3,47,97,000/- is claimed to have been received alongwith the genuineness of the respective loan transactions, therefore, the authorities below were constrained to treat the same as its unexplained cash credits under section 68 of the Act. At this stage, we may herein observe that as the situation as was there before the authorities below remains the same before us as the assessee company had failed to irrefutably prove the authenticity of its claim of having raised genuine loans from the aforementioned parties, therefore, we find no infirmity in the view

taken by the authorities below and are constrained to sustain the addition of Rs. 3,47,97,000/- made by the AO under section 68 of the Act. The **Grounds of appeal No. 4 and 5** are dismissed.

17. The **Grounds of appeal no. 1, 6 and 7** being general in nature are dismissed as not pressed.

18. Resultantly, the appeal filed by the assessee company being devoid and bereft of any substance is dismissed.

Order pronounced in the open court on 31ST ctober, 2025.

Sd/- **(MANJUNATHA G.)** **ACCOUNTANT MEMBER**	**Sd/-** **(RAVISH SOOD)** **JUDICIAL MEMBER**

Hyderabad,
Dated: 31st October, 2025
OKK / SPS

Copy to:

S.No	Addresses
1	Ranar Agrochem Limited, 10A, IDA Parawada, Parawada S.O, Edulapaka Bonangi, Visakhapatnam-531021, Andhra Pradesh-531021.
2	DCIT, Income Tax Office, Infinity Towers, Visakhapatnam.
3	The Pr.CIT, Visakhapatnam.
4	The DR, ITAT, Visakhapatnam.
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Visakhapatnam.