

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH: DEHRADUN**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.126/DDN/2025
(ASSESSMENT YEAR: 2017-18)

DCIT, Circle-1(1)(1), Subhash Road, Dehradun.	Vs.	UJVN Limited, 13-A, Subhash Road, Dehradun. PAN:AAACU6672R
(Appellant)		(Respondent)

ITA No.127/DDN/2025
(ASSESSMENT YEAR: 2024-25)

UJVN Limited, Ujjawal GMS Road, Dehradun-248001. Uttarakhand. PAN: AAACU6672R	Vs.	DCIT, Circle-1(2)(1), Subhash Road, Dehradun.
(Appellant)		(Respondent)

Assessee by	Dr. Rakesh Gupta, Adv. & Sh. Somil Agarwal, Adv.	
Department by	Shri A.S. Rana, Sr. DR	
Date of Hearing	11/09/2025	
Date of Pronouncement	27 /11/2025	

ORDER

PER MANISH AGARWAL, AM:

Both the appeals filed by the Revenue as well as assessee against the order of Learned Commissioner of Income Tax (Appeals)-2, Visakhapatnam, ('the CIT(A) in short) passed u/s 250 of the Income Tax Act, 1961, dated 28.05.2025 for Assessment Years 2017-18 and 2024-25.

2. First we take the appeal filed by the revenue in ITA NO. 126/DDN/2025 for AY 2017-18.

ITA No.126/DDN/2025 for Assessment Year 2017-18

3. Heard both the parties and perused the materials available on record. At the outset, it is seen that solitary issue in the appeal of the Revenue is with regard to the disallowing the depreciation claimed on the assessed acquired by the assessee on the split up from Uttar Pradesh Jal Vidyut Nigam Limited (UPJVNL). In the grounds of appeal itself Revenue has taken the ground that the order of the Co-ordinate Bench of ITAT stood challenged before the Hon'ble High Court of Uttarakhand. Therefore, the order of the Ld. CIT(A) who has followed the order of the Tribunal in assessee's own case for Assessment Year 2014-15 reported in [2022] 135 taxmann 201 (Delhi Tribunal) allowing the depreciation on the asset received by the assessee on the demerger is not attained finality.

4. It is further seen that following the said order in assessee's own case for Assessment Year 2018-29 as well as in AY 2021-22 and in AY 2022-23 in ITA No.153/DDN/2024, ITA No.154/DDN/2024 and ITA No.155/DDN/2024 respectively, the Co-ordinate Bench of Tribunal in terms of its order dated 23.08.2025 has allowed the depreciation claimed by the assessee.

5. As the facts in present case are identical to the facts existed in other years as has been admitted by the Revenue also and Ld. CIT(A) also followed the order of the Tribunal of preceding years, therefore, by respectfully following the said order, we hold that the assessee is eligible for deprecation on the asset on receipt for demerger. Accordingly, all the grounds of appeal taken by the Revenue are dismissed.

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

ITA No.127/DDN/2025 for Assessment Year 2024-25

7. Brief facts of the case are that the assessee has filed its return of income declaring loss of Rs.121,52,29,018/- which was assessed at a loss of Rs. 119,61,34,902/- in terms of the proceeding made u/s 143(1) of the Act vide order dated 12.12.2024 wherein the CPC has disallowed a sum of Rs.1,09,94,116/- towards delayed payment of employee's contribution of PF &ESI u/s 36(1)(va) of the Act.

8. Against the said order, assessee preferred an appeal before the Ld. CIT(A), who by following the judgement of Hon'ble Supreme Court in the case of *M/s Checkmate Service Pvt. Ltd. vs. CIT [2022]* reported in *143 Taxmann.com 178 (SC)* has confirmed the disallowance.

9. Against the said order, the assessee is in appeal before the Tribunal wherein following grounds of appeal are taken.

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO/CPC in assuming jurisdiction u/s 143(1) which is bad-in-law on various legal and factual grounds.

2. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO/CPC in making an adjustment/addition of Rs.1,90,94,116/- on account of employees' contribution to PF and ESI u/s 36(1)(va) and that too in the proceedings u/s 143(1) of the Act and that too when the employees' contribution to PF and ESI was paid by the assessee within 15 days' from the end of the month in which salary has been disbursed.

3. In any case and in view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO/CPC in making addition of Rs. 1,90,94,116/- on account of employees' contribution to PF and ESI u/s 36(1)(va), is bad in law and against the facts and circumstances of the case and the same is outside the purview of section 143(1) of the Act.

4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in passing the impugned order u/s 143(1) and that too without providing a reasonable opportunity of being heard in accordance with law to the assessee.

5. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.*"

10. Heard both the parties and perused the materials available on record. The assessee has fairly admitted that the issue of delayed deposit of employees contribution of PF and ESI is decided against it in terms of the Hon'ble Supreme Court in the case of Checkmate Service Pvt. Ltd. (supra). However, it is argued by the Id. AR for the assessee that due date has to be reckoned from the actual date of payment of salary as has been held by the Co-ordinate Delhi Bench of Tribunal in the case of M/s M.S. Vigilant Security Placement & Detective Services (P) Ltd. in ITA No.696/Del/2024. Though the delayed payment of employees contribution of PF & ESI is not allowable as expenses as per section 36(1)(va) of the Act however, we find force in the argument of the assessee for the purpose of due date under the respective Act, actual date of payment of salary should be taken into consideration. The Co-ordinate Bench in the case of M.S. Vigilant Security Placement & Detective Service (P) Ltd. (supra) has also expressed the view that due date should be reckoned from the date of actual payment of salary wherein the it has followed the judgement of the Kolkata Bench of the Tribunal in the case of *Kanoi Papers & Industries Ltd. vs. ACIT* reported in (2002) 075 TJJ 0448. The relevant observations of the Co-ordinate Bench in the case of M.S. Vigilant Security Placement & Detective Services (P) Ltd. (supra) are as under:

5. *Learned Counsel submits that the above "due" date has to be reckoned from the date of actual payment of salary in light of Kanoi Paper & Industries Ltd. vs. ACIT (2002) 75 TJJ 0448 (Cal.) as under:*

"Clause 38 of the Employees' Provident Fund Scheme, 1952, fixes the time-limit for making payment in respect of contribution to the provident fund to be 15 days from the close of the month concerned. However, the issue here is whether the "month" should be considered to be the month to which the wages relates or the month in which the actual disbursement of the wages is made, we are of the considered opinion that the expression "month" should mean here the month during which the wages/salary is actually disbursed irrespective of month to which the same relates. Thus, the scheme of the Government in this regard is that once a deduction is

made f respect of the employees' contribution to the provident fund from the salary/wages of the employee or the employer also makes his contribution, factually at the time of disbursement of the salary the payment in respect of such contribution should be made forthwith. If for some reason or other the payment of salary for a particular month be held up for considerable period of time it cannot be said that the employer would be liable to make payments in respect of the "employer's" as well as "employees" contribution in respect of wages for such period within a period of 15 days from the close of the month to which the wages relate. On the other hand, in our view, most appropriate interpretation would be that the employer would be at liberty to make payment of the contribution concerned within 15 days (subject however to the further grace period) from the end of the month during which the disbursement of the salary is actually made and the contribution of the provident fund are, thus, generated, inasmuch as, the provision relating to the disallowance of such contribution on account of delay is rather an artificial provision, In our view, a liberal approach has got to be made to this issue. Ultimately, therefore, we reverse the order of the lower authorities and direct the AO to examine whether the payments of contribution in the present case were made within 15 days (allowed with further grace period of 5 days) from the close of the respective months during which the disbursement of the salary/wages were actually made. The AO should recompute the amount disallowable, if any, on the above basis and take appropriate action accordingly."

6. *The assessee's instant first substantive ground is partly accepted for statistical purposes to this limited extent, in very terms.*
7. *Next substantive issue between the parties is that of credit of prepaid taxes as claimed at the assessee's behest. Both the learned representatives are very fair that the same requires Assessing Officer's factual verification and computation than our second appellate adjudication. We accordingly restore the assessee's instant second substantive ground back to the Assessing Officer in very terms.*
8. *Learned counsel lastly contends that the assessee's section 154 rectification claiming the benefit of section 115BAA already stand accepted by the departmental authorities. We accordingly reject the assessee's instant last substantive ground as rendered infructuous.*
9. *This assessee's appeal is partly allowed for statistical purposes, in above terms."*

11. In view of above discussion and by respectfully following the judgement of the Co-ordinate Bench as state above, we direct the AO to verify actual date of payment of salary and work out the due date under the respective Act for the purposes of the payment of employee's contribution of PF & ESI and decide the issue in accordance with law. With these directions, all the grounds of appeal taken by the assessee are partly allowed for statistical purposes.

12. In the result appeal of the assessee is partly allowed for statistical purposes.

13. In the final result, the appeal of the Revenue in **ITA No. 126/DDN/2025 (AY 2017-18)** is dismissed and the appeal of the assessee in **ITA No. 127/DDN/2025 (AY 2024-25)** is partly allowed for statistical purposes.

Order pronounced in the open Court on 27.11.2025.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 27 .11.2025.

PK/Sr. Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, DEHRADUN