



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

&

Dr. DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No. 48/RJT/2022

निर्धारणवर्ष / Assessment Year: (2018-19)

(Hybrid Hearing)

Ravirajsinh Kishorsinh Jadeja 312 Silver Chambers, Tagore Road, Rajkot – 630002 (Gujrat)	Vs.	ADIT CPC 1 st Floor, Prestige Alpha No. 48/1 48/2, Beratenaagrahara Begur, House Rd, Uttarahali Hobli, Karnataka - 560100
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AHJPJ0961H		
(Appellant)		(Respondent)

Appellant by : Shri Sumit Shingala, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav Ld. SR. DR
Date of Hearing : 27 / 11 /2025
Date of Pronouncement : 20 / 01 /2026

आदेश / ORDER

PER, Dr. DINESH MOHAN SINHA JM;

Captioned appeal filed by the assessee, pertaining to Assessment Year 2018-19, is directed against order passed under section 250 of the Income Tax Act, 1961 by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income Tax (Appeals), dated 03/12/2021, which in turn arises out of an order passed by the Assessing Officer u/s 143(1)(a) of the I.T. Act, on dated 03/02/2020.



The Grounds of appeal raised by the assessee are as follows: -

- 1. The AO has erred in law as well as in Facts while making adjustments u/s. 143(1) to returned income*
- 2. The AO has erred in law as well as in Facts while making disallowance towards OF Contributions*

3. Facts of the Case

I Shri RAVIRAJ SINH, KISHORSINH JADEJA (hereinafter referred as "Appellant of "Assessee") an Individual holding PAN: AHIP10961H proprietor of RK Security Services, engaged in the business of engaged in the business of Security Services and deriving income from Business and Profession. Appellant is regularly maintaining books of accounts and get them audited as required under the provisions of the Income Tax Act, 1961 and regularly filing return of income and thus assessed to tax. For the year under consideration i.e. F.Y. 2017-18 relevant to Assessment Year 2017-18 appellant has got books of audited as required and filed return of income on 25-09-2018 vide e-filing acknowledgment number 306202531250918 declaring total income of Rs.30,19,150/ Tax on said Income came to Rs.7,39,792/. The same was paid out of TDS of Rs.14,30,767/- and accordingly refund of Rs.6,90,980/- was claimed. Appellant is providing Security Services to various organization by way of deploying personnel at various sites. In this, Appellant need to incur considerable amount of salary expenses for personnel so employed. Appellant is also required to follow provident fund law



and law related to employee state insurance. Appellant is regularly paying salaries to employees. In most of the cases appellant has paid salary amount before it was received from the respective organization. However, appellant has deposited part of total contribution received from Employees towards PF and ESI some days beyond the due date provided under respective statute. However, it was well deposited before 'Due Date' for filing of return u/s. 139(1) of the Income Tax Act, 1961. The same is also accepted by the authorities under respective statute. The main reason for late of deposit of EPF and ESI contributions was financial crunch. The said amount is Rs.46,70,653/-, being Rs.43,71,706/- pertaining to EPF and Rs.2,98,947/- pertaining to ESI. At clause 20(b) of the 3CD- Tax Audit Report Auditor is required to mentioned details of contributions received from employees for various fund accordingly auditor has mentioned month wise details of contribution received for EPF and ESI, due date thereof under respective statute and actual date of payment. Since entire contribution received from employee were deposited before the 'Due Date' for filing of return u/s. 139(1) of the Income Tax Act, 1961, appellant has not added back/disallowed that portion of contributions which were deposited beyond due date provided under respective statute but before the 'Due Date'. However, while processing the return Assistant Director of Income Tax, CPC, Bengalur ("Assessing Officer") has disallowed the contributions of Rs.46,70,653/- under the provisions of 36(1) (va) of the Income Tax Act, 1961.



4. That the assessee filed an appeal against the order of assessment before Ld. CIT(A) by order dated 03/12/2021 has partly allowed with following observation:

“In view of these discussions, I hold that the appellant is not eligible for deduction of Rs. 46,70,653/- pertaining to employees contribution. Also, the AO was well within his jurisdiction u/s 143(1)(a)(ii) of the Act to disallow an incorrect claim of Rs. 46,70,653/- apparent from the information in Form no. 3CD attached with the return of income. Accordingly, the addition of Rs.46,70,653/- by way of disallowance u/s 36(1)(va) is hereby confirmed. In the result, grounds of Appeal raised by the appellant are hereby Dismissed.”

5. That the assessee has challenged the legality and validity of the impugned order dated 03.02.2020 and filed an appeal before this Tribunal.

i). The Ld. AR Submitted that the assessee could not deposit the PF/ESI in time.

ii). On the contrary the Ld. DR. Relied on the order of CIT(A).

6. We have heard the rival contention both the parties and perused the material available on record. We note that the ld CIT(A) has dismissed the appeal on the basis of decision by the Hon’ble Delhi High Court. That the Hon’ble Court had decided the issue of deduction of employees contribution to PF/ESI on the basis of Hon'ble Apex Court in the case of Mis Vinay Cements Ltd. whereas M/s Vinay Cement Ltd. decision dealt with only the issue of Section 43B(b) deduction pertaining to employers contribution. Our attention was also drawn towards the judgement by the Hon’ble Supreme Court in the case of Check mate private Service Civil Appeal No. 2833/16 date of order: 12-10-2022 Wherein, the issue was decided that the deduction



will be made available only when the payment of PF/ESI was deposited in due time. Since, the assessee has not deposited the PF/ESI in time hence, the deduction is not allowable. The ld. AR is agreed with it.

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

Order pronounced in the open court on 20 / 01 /2026.

Sd/-

(Dr. A.L. SAINI)
ACCOUNT MEMBER

Sd/-

(Dr. DINESH MOHAN SINHA)
JUDICAL MEMBER

Rajkot

दिनांक/ Date: 20/ 01 /2026

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot