

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH "DB", JABALPUR**
**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

I.T.A. No.154/JAB/2023
Assessment year: 2012-13

M.K.S Engineering Company Pvt Ltd 1 Namak Kothi North Civil Lines, Jabalpur-482001. PAN:AADCM1192R (Appellant)	Vs.	DCIT Circle-2(1) Aayakar Bhawan, Annexe Building Napier Town, Jabalpur-482001. (Respondent)
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Appellant by	Shri Dhiraj Ghai, CA
Respondent by	Shri Rahul Padha, JC-2

ORDER

PER ANADEE NATH MISSHRA: A.M.

(A) This appeal vide I.T.A. No.154/JAB/2023 has been filed by the assessee for assessment year 2012-13 against impugned appellate order dated 18.10.2023 (DIN & Order No.ITBA/NFAC/S/250/2023-24/1057182983(1) of Ld. Commissioner of Income Tax (Appeals) ["CIT(A)" for short].

(B) In this case, the dispute pertains to rectification order dated 13.03.2019 passed by the Assessing Officer ("AO") whereby an addition of Rs. 98,520/- to the total income was made u/s 36(1)(va) of the Income-tax Act, 1961 ("Act", for short). The aforesaid addition pertains to the delay in payment of employees' contribution to the Provident Fund (ECPF). The assessee's appeal against the said rectification order passed under section 154 of the Act was dismissed by the Ld. CIT(A), holding that the issue had attained finality in view of the judgment of the Hon'ble Supreme Court in *Checkmate Services (P.) Ltd. & Ors. vs. CIT-1*, Civil Appeal No. 2833 of 2016, dated 12.10.2022. In the present appeal, the order of the Ld. CIT(A) is challenged on two grounds. Firstly, the assessee contends that the entire amount of Rs. 98,520/- was paid within the prescribed time and, therefore,

no addition was warranted. Secondly, the assessee contends that the issue was debatable in nature and, therefore, recourse to section 154 of the Act could not have been taken by the AO for making an addition on a debatable issue. In the course of appellate proceedings in ITAT, the assessee filed a paper book containing the following particulars: -

<u>PAPER BOOK</u>	
PARTICULARS	
1.	Copy of Written Submission Filed before Hon'ble CIT, with enclosure
2.	Copy of order of Hon'ble Delhi Bench in the case of Fil India Business & Research Service Pvt. Ltd. vs. ACIT, Circle-7(1) New Delhi , ITA No. 412/Del/2023.
3.	Copy of order of Hon'ble Delhi Bench in the case of Phoenix Poultry vs. ACIT, Circle 1(1) Jabalpur, ITA No. 76/Jab/2023.

(B.1) At the time of hearing, the Ld. Authorized Representative ("AR, for short) for assessee supported the grounds of appeal. He placed reliance on the paper book filed in the course of paper book [referred in foregoing paragraph no. (B) of this order]. He also placed reliance on the order of the Delhi Bench of the ITAT in the case of *Climax Overseas Pvt. Ltd. vs. DCIT* in ITA No. 2267/Del/2025. The Ld. Departmental Representative ("DR", for short) for Revenue supported the orders of the Ld. CIT(A) and the order of the AO.

(C) We have heard both sides. We have perused the materials on record. On perusal of the aforesaid order dated 13.03.2019 passed u/s 154 of the Act, it is found that paragraph no. 3 of the order mentions issuance of only one notice given to the assessee, (*i.e., notice dated 01.01.2019*). However, there is no mention of any further opportunity having been provided to the assessee. Moreover, the order is silent regarding the time allowed to the assessee for compliance with the said notice. In these circumstances, we are of the considered view that the aforesaid order passed u/s 154 of the

Act was made without providing reasonable opportunity to the assessee. Therefore, the issues in dispute in the present appeal are restored to the file of the Assessing Officer with a direction to pass *de novo* order in accordance with law, after providing reasonable opportunity to the assessee and after giving due consideration to the judgment of the Hon'ble Supreme Court in the case of *Checkmate Services (P) Ltd. & Ors. vs. CIT-1 (supra)*. All pleadings will be available to the assessee in the proceedings before the Assessing Officer while giving effect to this order. All grounds of appeal are treated as disposed of in accordance with the aforesaid direction.

(D) In the result, the appeal of the assessee stands partly allowed for statistical purposes.

(Order pronounced in the open court on 19/02/2026)

Sd/-
[KUL BHARAT]
VICE PRESIDENT
Dated: 19/02/2026
Vijay Pal Singh (Sr. PS)

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T., Jabalpur

Sl. No	Particulars	Date
1	Date of dictation	11.02.2026
2	Date on which the draft is placed before the Dictating Member	
3	Draft placed before the other Member	
4	Approved draft comes to the Sr. PS/PS	
5	Kept for pronouncement on	
6	Final order received after pronouncement	
7	File sent to the Bench Clerk	
8	Date on which files goes to the Head Clerk	
9	Date on which file goes to the Assistant Registrar	
10	Date of dispatch of order	