आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं /**ITA.No.638/Hyd/2025**

Assessment Year 2018-2019

CES Limited, Hyderabad – 500 032. Telangana. PAN AADCS4564P	vs.	The DCIT, Circle-1(1), Hyderabad. Telangana.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by :	CA P Murali Mohan Rao	
राजस्व द्वारा/Revenue by :	Dr. Sachin Kumar, Sr. AR	

सुनवाई की तारीख/Date of hearing:	02.02.2026
घोषणा की तारीख/Pronouncement:	06.02.2026

आदेश/ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the Assessee is directed against the Order dated 07.03.2025 of the learned Addl/JCIT(A)-1, Kolkata arising from the Order of CPC passed u/sec.143(1) Income Tax Act [in short "the Act"], 1961 for the assessment year 2018-2019.

2. The assessee has raised the following grounds of appeal:

1. *"The order passed by the Ld. CIT(A) u/s 250 of the Act dt. 07.03.2025 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.*
2. *The Ld. CIT(A) erred in disallowing Rs. 79,83,715/- in respect of Provident fund and ESI which was duly paid by the assessee before the due date for filing the return of income under section 139 of the Act.*
3. *The Ld. CIT(A) ought to have appreciated that the amount of Rs.79,83,715/-is allowable u/s 36(1)(va) of the Act.*
4. *The Ld. CIT(A) ought to have considered that all payments 1 relation to PF/ESI payment were made within the time limits prescribed in the Act.*
5. *The Ld. CIT(A) erred in making the additions not considering section 36(1)(va) r.w.s 43B of the Act, the expenditure is allowable if paid within due date of filing of return.*
6. *The LD. CIT(A) ought to have appreciated that While Processing Return of Income as per its order dated 03-10-2019 the notice u/s 143(2) was already issued by the NFAC-AO 22-09-2019.*
7. *The Ld. CIT(A) erred in not appreciating the fact that the instruction no.1/2015 dated 13th January, 2015 given by the CBDT regarding the applicability of section 143(1D) of the Act which specifies that the processing of a return cannot be undertaken after notice has been issued under sub-section(2) of section 143 of the Act.*
8. *Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal."*

3. At the time of hearing, the learned Authorised Representative of the Assessee has submitted that an identical issue was involved in the appeal of the assessee filed against the assessment order passed u/sec.143(3) of the Act and this Tribunal vide Order dated 21.06.2023 in ITA.No.256/Hyd./2023 for the assessment year 2018-2019 has remanded the said matter/issue to the record of the learned CIT(A) with a direction to consider the relevant record and facts and then decide the issue as per the Judgment of Hon'ble Supreme Court in the case of **Checkmate Services P. Ltd., & Ors. vs. CIT & Ors. [2022] 448 ITR 518 (SC)**. Thus, the learned Authorised Representative of the Assessee has submitted that this matter may also be remanded to the learned CIT(A) as the issue raised in this appeal is common to the issue remanded by the Tribunal in the appeal against the assessment order.

4. On the other hand, the learned DR has submitted that the issue involved in this appeal is covered by the Judgment of Hon'ble Supreme Court in the case of **Checkmate Services P. Ltd., & Ors. vs. CIT & Ors. (supra).**

5. We have considered the rival submissions as well as relevant material on record. At the outset, we note that in the appeal of assessee arising from the assessment order passed u/sec.143(3) of the Act this Tribunal vide Order dated 21.06.2023 in ITA.No.256/Hyd./2023 for the assessment year 2018-2019, has remanded the matter including the issue of disallowance of PF/ESI/Gratuity to the record of the learned CIT(A) in Paras-7 to 7.2 as under:

> *"7. We have heard the rival contentions of the parties and perused the material available on record. Admittedly, the AO has examined the case of the assessee under scrutiny assessment for two limited issues i.e., for expenditure of personal nature and refund claim. The AO is duty bound to restrict to the claim of the assessee unless he after taking the approval from the competent authority made the limited scrutiny assessment to full-fledged assessment. That has not been done, therefore, AO was duty bound to restrict to its findings only to the issue under consideration before him. Admittedly, no addition has been made in the hands of the assessee on the above two counts.*
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> *7.1. Assessee preferred appeal before the Ld. CIT(A) and Ld. CIT(A) had dismissed the appeal of the assessee for the reasons stated above. In our view once the appeal of the assessee against intimation under section 143(1) of the Act is pending adjudication before the NFAC, then it is required in the subsequent appellate proceedings for CIT(A) to wait for the outcome of the earlier appeal pending against intimation under section 143(1)(a)*

of the Act. As the case may be, the present order has been passed without waiting for the outcome of the appeal of the assessee filed against order under section 143(1) of the Act.

7.2. In the light of the above, we are of the opinion that the matter be remanded back to the file of Ld. CIT(A) with a direction to consider the record of other pending appeals and other material and to give a finding on various other aspects including with respect to expenditure disallowed by the assessee and added by AO towards the privileged leaves and disallowance of expenses incurred towards deposit of assessee's contribution under ESI/PF/Gratuity Act. In view of the above, we restore the matter to the file of the Ld. CIT(A) with a direction to pass reasoned order on the above said aspects, on the basis of information available on record and also on the basis of the material filed by the assessee. Needless to say while doing so, the Ld. CIT(A) shall be bound by the jurisdiction of the decision of the Hon'ble Supreme Court rendered in the case of Checkmate Services Pvt. Ltd., Vs. CIT, Civil Appeal No. 2833/2016 by order dated 12/10/2022. CIT(A) shall also provide sufficient opportunities to the assessee and shall also call for remand report on the above said issue from AO.

Grounds are accordingly treated as allowed for statistical purposes."

5.1. Accordingly, in view of the earlier order of this Tribunal and to follow the rule of consistency, this matter is also remanded to the record of the learned CIT(A) for adjudication of the issue as per earlier directions of this Tribunal.

6. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 06.02.2026.

Sd/-	Sd/-
[MADHUSUDAN SAWDIA]	[VIJAY PAL RAO]
ACCOUNTANT MEMBER	VICE PRESIDENT

Hyderabad, Dated 6th February 2026

VBP

Copy to:

1.	CES Limited, Hyderabad – 500 032. Telangana. C/o. P. Murali & Co. Chartered Accountants, 6-3-655/1/3, Somajiguda, Hyderabad - 500 082.
2.	The DCIT, Circle-1(1), Hyderabad – 500 084.
3.	The Pr. CIT, Hyderabad.
4.	The DR, ITAT, “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER