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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 517/2023 and CM APPL. 46717/2023**

PR. COMMISSIONER OF INCOME TAX ..... Appellant

Through: Mr Zoheb Hossain, Sr. Standing  
Counsel with Mr Sanjeev Menon,  
Standing Counsel.

versus

SH. YOGVIR SINGH ..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MR JUSTICE GIRISH KATHPALIA**

**ORDER**

**12.09.2023**

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[Physical Hearing/Hybrid Hearing (as per request)]

1. This appeal concerns Assessment Year (AY) 2018-19.
2. *Via* the instant appeal the appellant/revenue seeks to assail the order dated 26.04.2022 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].
3. The record shows that the respondent/assessee's return was processed under Section 143(1) of the Income Tax Act, 1961 [in short, "the Act"], at which point in time addition amounting to Rs.16,82,56,315/- was made to the declared income.
  - 3.1. This addition was made on account of disallowance of employee contribution made towards EPF and ESI. It appears that this addition was made as there was delay in depositing the said amounts before the due date. In this regard recourse was taken under Section 143(1)(a)(iv), read with

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Section 36(1)(va) of the Act.

4. On a rectification application filed by the respondent/assessee, the addition was scaled down to Rs.3,00,26,766/-.
5. In an appeal filed by the respondent/assessee, the Commissioner of Income Tax (Appeals) [in short, "CIT(A)"] via order dated 04.04.2022 upheld the aforementioned addition.
6. It is in this background the respondent/assessee preferred an appeal with the Tribunal. The Tribunal *via* the impugned order dated 26.04.2022 deleted the additions.
7. Mr Zoheb Hossain, learned senior standing counsel, says that the order cannot be sustained in view of the judgment of the Supreme Court rendered in *Checkmate Services P. Ltd. v. Commissioner of Income Tax-1*, 2022 SCC OnLine SC 1423.
8. Issue notice to the respondent/assessee *via* all modes, including e-mail.
9. Notice will be accompanied by the order passed today.
10. List the appeal on 11.12.2023.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**SEPTEMBER 12, 2023 / tr**

[Click here to check corrigendum, if any](#)