

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No. 145/CTK/2016
Assessment Year : 2012-2013

Jagannath Polymers Limited, Shastri Nagar, Naya Bazar, Cuttack	Vs.	ACIT, Circle 1(1), Cuttack
PAN/GIR No.AAACJ 5664 L		
(Appellant)	..	(Respondent)

Assessee by : Shri B.V.R.Swamy, AR
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 23/08/ 2017
Date of Pronouncement : 28 /08/ 2017

ORDER

Per N.S.Saini, AM

This is an appeal filed by the assessee against the order of the CIT(A)-Cuttack, dated 18.2.2016 for the assessment year 2012-2013.

2. Ground Nos.1 & 3 are general in nature and hence, require no separate adjudication by us.

3. In Ground No.2(A), the grievance of the assessee is that the CIT(A) erred in confirming the addition made by the Assessing Officer towards employees contribution to ESI of Rs.54,146/- and PF of Rs.3,68,277/-.

4. The facts are that the Assessing Officer found that the assessee has not deposited employees contribution to ESI of Rs.54,146/- and to PF of Rs.3,68,277/- within the prescribed limit given under the respective Act.

Therefore, the Assessing Officer disallowed the amount as per provisions of section 2(24)(x) r.w.s 36(1)(va) of the Act.

5. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

6. Before US, Id A.R. of the assessee argued that employee's contribution to PF and ESI was allowable deduction to the assessee if the same was deposited within the due date of filing the return of income u/s.139(1) of the Act. He submitted that it will be observed from the assessment order that the payments are made by the assessee before due date of filing the return of income u/s.139(1) of the Act and, therefore, the deduction should be allowed.

7. Ld D.R. supported the orders of lower authorities.

8. We have heard rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, it is not in dispute that the employees' contributions to PF of Rs.3,68,277/- and ESI of Rs.54,146/- were deposited by the assessee before due date of filing the return of income u/s.139(1) of the Act. The Hon'ble Delhi High Court in *CIT Vs. AIMIL Limited [2010] 321 ITR 508 (DEL)* has held that the employees' contribution towards EPF and ESI etc. deposited after the due date but before the time allowed for filing the return u/s.139(1) will not call for any disallowance u/s.36(1)(va). Therefore, we set aside the orders of lower authorities and delete the disallowance of employees

contribution to PF of Rs.3,68,277/- and ESI of Rs.54,146/- and allow this part of ground of appeal of the assessee.

9. In Ground No.2(B), the grievance of the assessee is that the CIT(A) erred in confirming the canteen expenses of Rs.43,220/- and viswakarma puja expenses of Rs.74,926/- and puja expenses of Rs.1130/-.

10. The facts in brief are that the Assessing Officer found that the assessee has incurred total expenditure of Rs.4,71,151/- towards running a canteen. Since the bills and vouchers were not properly maintained by the assessee, the Assessing Officer taking into nature and volume of business, disallowed Rs.43,220/- u/s.37 of the Act out of total claim of Rs.4,71,151/- by the assessee. The Assessing Officer further found that the assessee has debited an amount of Rs.74,926/- and Rs.1130/- towards viswakarma Puja & puja expenses, respectively. Since the assessee could not explain before the Assessing Officer how such expenditure relates to business of the assessee, the Assessing Officer disallowed the amount of Rs.76,056/- and added the same to the income of the assessee.

11. On appeal, the CIT(A) confirmed the action of the Assessing Officer.

12. We have heard the rival submissions, perused the orders of lower authorities and materials available on record. In the instant case, the assessee has claimed canteen expenses of Rs.4,71,151/-. The Assessing Officer disallowed Rs.43,220/- out of canteen expenses on the ground

that the vouchers were not properly maintained and in appeal, the action of the Assessing Officer was upheld. We find that the assessee has incurred these expenses voluntarily for the general welfare and benefit of the employees. Such expenditure has nexus with the conduct of business and the expenditure incurred for maintaining cordial relations with the employees is an expenditure for the carrying on of a business. It is not the case of the revenue that the assessee has not incurred the amount for the welfare of the employees, therefore, the amount is deductible under [Section 37](#) of the Income Tax Act. Hence, we allow this part of the ground of appeal.

13. As regards to puja expenses, we find that this issue is covered by the decision of the Mumbai Benches of the Tribunal in the case of *Deloitte Haskins & Sells vs ACIT* (2017) 155 TR (A) 609 (Mum), wherein, it has been held that satyanarayan puja is done at the business premises for the larger interest of the professional and employees of assessee firm. It was more in the nature of goodwill gesture and keeping good relationship and environment amongst the colleagues. If any expenditure which was incurred for the general benefit of the professional and employees, the same could not be held to be incurred for non-business purposes. Therefore, the Tribunal allowed the puja expenses. In the instant case also, the assessee has incurred puja expenses for Viswakarma Puja and other puja in the vicinity of the company. Therefore, respectfully following the decision of Mumbai Benches of the Tribunal in the case of

Deloitte Haskins & Sells (supra), we delete the puja expenses of Rs. Rs.76,056/-.

14. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 28 /08/2017.

Sd/-

sd/-

(Pavan Kumar Gadale)
JUDICIALMEMBER

(N.S Saini)
ACCOUNTANT MEMBER

Cuttack; Dated 28 /08/2017
B.K.Parida, SPS

Copy of the Order forwarded to :

1. The Appellant : Jagannath Polymers Limited,
Shastri Nagar, Naya Bazar, Cuttack
2. The Respondent. ACIT, Circle 1(1), Cuttack
3. The CIT(A)- Cuttack
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY
ITAT, Cuttack