

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री भागचंद, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI BHAGCHAND, AM

आयकर अपील सं./ITA No. 134/JP/2018
निर्धारण वर्ष / Assessment Year: 2013-14

Deputy Commissioner of Income Tax, Circle-6, Jaipur.	बनाम Vs.	M/s Jaipur Vidyut Vitran Nigam Ltd., Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABCJ 6373 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Smt. Rolee Agarwal(CIT)
निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)

सुनवाई की तारीख / Date of Hearing : 03/04/2018
उदघोषणा की तारीख / Date of Pronouncement : 04/04/2018

आदेश / ORDER

PER: BHAGCHAND, A.M.

This is an appeal filed by the revenue emanates from the order of the Id. CIT(A)-2, Jaipur dated 21/11/2017 for the A.Y. 2013-14, wherein the revenue has taken following grounds of appeal:

- “(i) Whether on the facts in the circumstances of the case and in law the Id. CIT(A) is justified in disallowance of Rs. 5,86,97,214/- made by the A.O. for depositing the employees' contribution of CPF/GPF/ESI beyond the prescribed time limit provided in respective Acts.
- (ii) Whether on the facts in the circumstances of the case and in law the Id. CIT(A) was justified in holding that employee's contribution to PF & ESI

are governed by the provision of Section 43B and not by Section 36(1)(va) r.w.s. 2(24)(x) of the IT Act.

2. Grounds No. (i) and (ii) of the revenue's appeal are interlinked and against deleting the addition of Rs. 5,86,97,214/- on account of depositing the PF & ESI beyond the prescribed time limit. The Id. CIT(A) has granted relief to the assessee by holding as under:

"2.3. I have perused the facts of the case, the assessment order and the submissions of the appellant. Admittedly, contribution to PF & ESI has been paid by the appellant, in all instances, before the due date of filing the return of income U/s 139(1). This fact is therefore, not in dispute. In view of the judgments of the Rajasthan High Court in the case of Jaipur Vidhyut Vithran Nigam Limited, 265 CTR 62 (Raj), CIT Vs State Bank of Bikaner & Jaipur (2014) 99 DTR 131 (Raj), and other case laws on this issue, the claim of the appellant is allowable. Accordingly, this disallowance made by the Assessing Officer is, directed to be deleted. This ground is allowed."

3. The Id. CIT DR has vehemently supported the order of the Assessing Officer. On the contrary, the Id AR of the assessee has reiterated the arguments as made before the Id. CIT(A) and prayed to allow the appeal.

4. The Bench have heard both the sides on this issue. Since this issue is covered by the decision of the Hon'ble Jurisdictional High Court on which the Id. CIT(A) has relied to grant relief to the assessee, therefore,

we sustain the order of the Id. CIT(A) on this issue and dismiss the grounds No. (i) and (ii) of this appeal.

5. In the result, the appeal of the revenue stands dismissed.

Order pronounced in the open court on 04/04/2018.

Sd/-
(विजय पाल राव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

Sd/-
(भागचंद)
(BHAGCHAND)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 04th April, 2018

*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- The DCIT, Circle-6, Jaipur.
2. प्रत्यर्थी / The Respondent- M/s Jaipur Vidyut Vitran Nigam Ltd., Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 134/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar