

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “C” BENCH

**(BEFORE SHRI WASEEM AHMED, ACCOUNTANT
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 2529/AHD/2016
(Assessment Year: 2013-14)**

Dhall Enterprises & Engineers Pvt. Ltd. Nr. G.D. High School, Saijpur Bogha, Ahmedabad- 382345	V/S	The Dy. C.I.T. Circle- 1(1)(2), Ahmedabad
(Appellant)		(Respondent)

PAN: AAACD5351J

**Appellant by : Shri M.K. Patel, AR
Respondent by : Shri T. Sankar, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 11 -05-2018
Date of Pronouncement : 21 -05-2018

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal by the Assessee is directed against the order of the Ld. CIT(A)-1, Ahmedabad dated 24.08.2016 pertaining to A.Y. 2013-14 and following grounds have been taken:.

1. That on facts and in law, the ld. CIT(A) has grievously erred in confirming the addition of Rs. 3,81,252/- made u/s. 36(1)(va) r.w.s. 2(24)(x) of the Act.

2. Facts of the case are that on verification of audit report filed during the course of assessment proceedings, the auditor has reported the employees PF/ESIC contribution are paid by the assessee late, the details of which are as under:

Sr. No	Month	Nature of Payment	Amount	Due Date	Date of payment
1	October-2012	PF	240630	20/11/2012	21/11/2012
1	April-2012	ESIC	17194	21/05/2012	25/05/2012
2	May-2012	ESIC	18266	21/06/2012	23/06/2012
3	August-2012	ESIC	32357	21/09/2012	26/09/2012
4	September-2012	ESIC	19323	21/10/2012	22/10/2012
5	October-2012	ESIC	18039	21/11/2012	22/11/2012
6	November-2012	ESIC	17749	21/12/2012	22/12/2012
7	January -2013	ESIC	17694	21/02/2013	28/02/2013
	TOTAL		381252		

- ii) As such, vide Point No. 8 of order sheet entry dated 07/07/2015, the assessee was required to explain as to why the amount of Rs. 3,81,252/- should not be treated as income u/s. 2(24)(x) of the Income Tax. Act and made addition of Rs. 3,81,252/-.
3. Against the said order, assessee preferred first statutory appeal before the ld. CIT(A) but to no avail.

4. We have gone through the relevant record in the impugned order. This case is squarely covered against the appellant by the decision of the Hon'ble Gujarat High Court in the case of Gujarat State Road Transport Corporation 366 ITR 170 wherein it is held as under:

"Section 43B, read with section 36(1)(va) of the Income-tax Act, 1961 - Business disallowance - Certain deductions to be allowed on actual payment (Employees contribution) - Whether where an employer has not credited sum received by it as employees' contribution to employees' account in relevant fund on or before due date as prescribed in Explanation to section 36(1)(va), assessee shall not be entitled to deduction of such amount though he deposits same before due date prescribed under section 43B i.e., prior to filing of return under section 139(1) -Held, yes - Assessee State transport corporation collected a sum being provident fund contribution from its employees - However, it had deposited lesser sum in provident fund account - Assessing Officer disallowed same under section 43B -However, Commissioner (Appeals) deleted disallowance on ground that employees contribution was deposited before filing return - Whether since assessee had not deposited said contribution in respective fund account on date as prescribed in Explanation to section 36(1)(va), disallowance made by Assessing Officer was just and proper - Held, yes [Para 8] [In favour of revenue]"

5. Respectfully following the above said decision, we dismiss the appeal of the appellant and in our considered opinion, ld. CIT(A) has passed detailed and reasoned order on the basis of Jurisdictional High Court judgment.
6. In the result, the appeal filed by the appellant is dismissed.

Order pronounced in Open Court on	21- 05- 2018
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Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 21/05/2018

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

4 ITA No. 2529/Ahd/2016
A.Y. 2013-14

- .
1. The Appellant.
 2. The Respondent.
 3. The CIT (Appeals) –
 4. The CIT concerned.
 5. The DR., ITAT, Ahmedabad.
 6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad