

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI R.C. SHARMA, HON'BLE ACCOUNTANT MEMBER AND  
SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER**

**ITA NO.6042/MUM/2016 (A.Y: 2012-13)**

Income Tax Officer – 6(1)(3)  
R.No. 508, 5<sup>th</sup> Floor,  
Aayakar Bhavan, M.K. Road,  
Mumbai-400 020

v.

M/s. Bangalore Shirt Company Pvt. Ltd.,  
115, Cama Industrial Estate,  
Sun Mill Compound, Lower Parel (W),  
Mumbai – 400 021

**PAN: AAACB 2193 G**

**(Appellant)**

**(Respondent)**

**Assessee by**

**: Shri S.L. Jain**

**Department by**

**: Shri V. Vidhyadhar**

**Date of Hearing**

**: 31.05.2018**

**Date of Pronouncement**

**: 08.08.2018**

**ORDER**

**PER C.N. PRASAD (JM)**

1. This appeal is filed by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals) – 12, Mumbai dated 25.07.2016 for the Assessment Year 2012-13.

2. The Revenue in its original grounds of appeal challenged the order of the Ld.CIT(A) in deleting the disallowance made towards PF and ESI contributions which were paid beyond due date specified in respective Acts but before due date for filing the return of income u/s. 139 of the Act.

Revenue also raised addition grounds challenging the order of the Ld.CIT(A) in deleting the disallowance of depreciation on motor car and interest on car loan.

3. In so far as the disallowance of PF and ESI contributions the facts are that, the Assessing Officer while completing the assessment disallowed PF and ESI contributions which were paid by the assessee beyond the due date specified in the respective Acts but before the due date for filing the return of income. The Ld.CIT(A) following the decision of the Hon'ble Jurisdictional High Court in the case of Ghadge Patil [368 ITR 749] wherein it has been held that PF and ESI contributions which were paid by the assessee before the due date for filing of return are allowable as deduction.

4. Ld. Counsel for the assessee strongly supported the orders of the Ld.CIT(A) and the Ld. DR supported the orders of the Assessing Officer.

5. We have heard the rival submissions, perused the orders of the authorities below. The issue of whether the PF and ESI contributions should be allowed as deduction when paid beyond due date specified in the respective Acts but before the due date for filing return of income is decided in favour of the assessee by the Hon'ble Jurisdictional High Court in the case of Ghadge Patil (supra). Ld.CIT(A) following the said decision deleted the disallowance. In the circumstances, we do not find any

infirmary in the order passed by the Ld.CIT(A). Grounds raised by the Revenue on this issue are rejected.

6. Coming to the additional grounds, the Assessing Officer while completing the assessment noticed that assessee purchased BMW Car and registered the same in one of the Director's relatives. The assessee contended that the car was purchased by taking loan and the company repaid the loan through EMI. It is also contended that the car was used for the purpose of business and the car was purchased through the funds of the company. The asset belongs to the company and therefore the depreciation as well as the interest was rightly claimed as deduction. However, the Assessing Officer not convinced with the submissions of the assessee denied depreciation and interest on car loan. On appeal the Ld.CIT(A) following the decision of the Apex court in the case of Mysore Minerals Ltd. v. CIT [239 ITR 775] and the Hon'ble Jurisdictional High Court in the case of CIT v. Dilip Singh Sardarsingh Bagga [201 ITR 995] allowed the claims of the assessee.

7. Ld. DR strongly supported the orders of the Assessing Officer and the counsel for the assessee strongly placed reliance on the orders of the Ld.CIT(A).

8. We have heard the rival submissions, perused the orders of the authorities below. In this case the depreciation was denied as the vehicle

was registered in the name of the relative of the Director. The Ld.CIT(A) following the decision of the Apex Court in the case of Mysore Minerals Ltd. v. CIT (supra) and the Hon'ble Jurisdictional High Court in the case of CIT v. Dilip Singh Sardarsingh Bagga (supra) wherein it has been held that depreciation is allowable in the hands of the company even if the vehicle is registered in the name of its Directors, allowed the claim of the assessee. Similarly, the interest paid on car loan is allowable as deduction. Thus, we do not find any infirmity in the order passed by the Ld.CIT(A). The additional ground raised by the Revenue is rejected.

9. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on the 08<sup>th</sup> August, 2018

Sd/-  
**(R.C. SHARMA)**  
**ACCOUNTANT MEMBER**  
Mumbai / Dated 08/08/2018  
Giridhar, Sr.PS

Sd/-  
**(C.N. PRASAD)**  
**JUDICIAL MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**