

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘C’

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1726/Ahd/2017

निर्धारण वर्ष/Assessment Year: 2017

Aspen Infrastructures Ltd. (formerly Synefra Engineering & Construction Ltd.) 5, Shrimali Society Nr. Shri Krishna Complex Narangpura, Ahmedabad 380009. PAN : AACCS 6871 Q	Vs	DCIT, Cir.4(1)(1) Ahmedabad.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
Assessee by :	Shri P.B. Parmar, AR
Revenue by :	Shri G.C. Daxini, Sr.DR

सुनवाई की तारीख/Date of Hearing : 26/03/2019

घोषणा की तारीख /Date of Pronouncement : 8 / 04/2019

ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER : Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-8, Ahmedabad dated 5.6.2017 passed for the Asstt.Year 2013-14.

2. Though the assessee has taken four grounds of appeal, but its substantial grievance is that the Id.CIT(A) has erred in confirming the disallowance of Employees Contribution towards PF amounting to Rs.23,99,459/- which was disallowed by the AO under section 36(1)(va) r.w.s. 2(24)(x) of the Income Tax Act, 1961.

3. With the assistance of the ld.representatives, we have gone through the record carefully. It merges out from the record that the assessee has filed its return of income on 28.9.2013 declaring total income at Rs.NIL after setting off brought forward business loss. On scrutiny of the accounts, it revealed to the AO that the assessee has debited a sum of Rs.23,99,459/- in accounts and claimed payment of Employees Contribution towards PF and ESI. The ld.AO has reproduced accounts of such contribution made by the employees showing actual payment, due date of payment, actual date of payment. Such details are reproduced in para 4.1 of the assessment order.

4. We have perused these details. It emerges out that the contribution for the month of June, 2012 was actually paid in the month of February, 2013. Some defaults are there with regard to other months. The AO has specifically held that these were not paid within due date provided in the PF and ESI Acts, therefore, he disallowed it. On appeal, the ld.CIT(A) has confirmed the disallowance by following decision of Hon'ble jurisdictional High Court in the case of CIT Vs. Gujarat State Road Transport Corporation Ltd., 366 ITR 170. The ld.counsel for the assessee contended before us that the issue be remitted to the AO for verification of the payments. He made reference to the decision of ITAT in the case of Suzlon Energy Ltd. Vs. DCIT, Ahmedabad.

5. On consideration of the above facts, we find that the details of payments were already noticed by the AO in para-4.1 and we have gone through these details. The payments have not been made within due date. Therefore, no purpose will be served for remitting this issue to the

file of AO. We do not find any merit in this appeal of the assessee. It is dismissed.

6. In the result, appeal of the assessee is dismissed.

Pronounced in the Open Court on 8th April, 2019.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**SD/-
(RAJPAL YADAV)
JUDICIAL MEMBER**