

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'SMC' : NEW DELHI)
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 6190/Del/2018
Assessment Year: 2015-16

BADHWAR AUTOMOTIVE P. LTD., VS. ACIT, ROHTAK CIRCLE,
SONEPAT ROAD, ROHTAK
ROHTAK
HARYANA
(PAN: AACCB9426G)

(APPELLANT)

(RESPONDENT)

Assessee by : Sh. Naman Arora, CA
Revenue by : Sh. SL Anuragi, Sr. DR.

ORDER

The Assessee has filed the Appeal against the Order dated 30.7.2018 of the Ld. CIT(A), Rohtak pertaining to assessment year 2015-16 on the following grounds:-

- i) On the facts and circumstances of the case and in law, Ld. CIT(A) grossly erred in not appreciating the facts and circumstances of the case and thus based his decision on factually incorrect findings.
- ii) On the facts and circumstances of the case and in law, the Ld. CIT(A) erred in upholding the addition made by the AO amounting to INR 1,98,836/- on account of delay in deposit of employees

contribution to ESI and EPF within the specified due dates under the relevant statute, though the same was deposited before filing of tax return for the year under consideration .

The appellant prays that it may be allowed to add, amend, alter, or withdraw any ground of appeal either before or at the time of hearing of this appeal.

2. The facts narrated by the revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of convenience.

3. At the time of hearing, Ld. Counsel for the assessee stated that the lower authorities have not appreciated the facts and circumstances of the case and thus based his decision on factually incorrect findings. He further submitted that Ld. CIT(A) has wrongly upheld the addition made by the AO amounting to Rs. 1,98,836/- on account of delay in deposit in employees contribution to ESI and EPF within the specified due dates under the relevant statutes, though the same was deposited before filing of tax return for the year under consideration. He further submitted that assessee's case is squarely covered by the decision of the ITAT, 'H' Bench, New Delhi in the case of Universal Precision Screws vs. ACIT, New Delhi which was not considered by the revenue authorities.

4. On the contrary, Ld. DR relied upon the order of the authorities below, but could not controvert the contention raised by the Ld. Counsel for the assessee.

5. I have heard both the parties and perused the records especially the orders of the revenue authorities. I find that in this case AO has made the addition of Rs. 1,98,836/- on account of delay in deposit in employees contribution to ESI and EPF within the specified due dates under the relevant statutes, though the same was deposited before filing of tax return for the year under consideration and similarly, Ld. CIT(A) has upheld the action of the AO. However, I find that on identical facts and circumstances, the ITAT, 'H' Bench, New Delhi in the case of Universal Precision Screws vs. ACIT, New Delhi vide its order dated 8.2.2015 passed in ITA No. 2034(Delhi) of 2013 (AY 2009-10) has decided the case in favour of the assessee, but the lower authorities have not considered this decision while making and confirming the addition in dispute. Therefore, in the interest of justice, I set aside the issues in dispute to the file of the AO with the directions to verify the claim of the assessee on the anvil of the ITAT, 'H' Bench, New Delhi decision in the case of Universal Precision Screws vs. ACIT, New Delhi dated 8.2.2015 passed in ITA No. 2034(Delhi) of 2013 (AY 2009-10) and decide the same, afresh, as per law, after giving adequate opportunity of being heard to the assessee and pass a speaking order, after considering all the documents / evidences to be filed by

the assessee before the AO. Assessee is also directed to fully cooperate with the AO in the proceedings and did not take any unnecessary adjournment and file all the necessary documents / evidences to substantiate its case.

6. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced on 23-04-2019.

Sd/-

(H.S. SIDHU)
JUDICIAL MEMBER

Dated :23-04-2019

SR BHATANGAR

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.