

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'B'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND**

SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.179/Ahd/2018

निर्धारण वर्ष/Asstt. Year: 2014-15

Ocean Agro (India) Ltd. A/207, Oxford Avenue Ashram Road Ahmedabad 380 009. PAN : AAACO 1849 A	Vs.	DCIT, Cir.3(1)(2) Ahmedabad.
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<i>अपीलार्थी/ (Appellant)</i>	<i>प्रत्यर्थी/ (Respondent)</i>
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Assessee by :	Ira Kapoor, AR
Revenue by :	Shri Dinesh Singh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 09/04/2019

घोषणा की तारीख/Date of Pronouncement: 24/04/2019

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Assessee is in appeal before the Tribunal against order of the Id.CIT(A)-9, Ahmedabad dated 21.11.2017 passed for the Asstt.Year 2014-15.

2. Though the assessee has raised as many as five grounds of appeal, but only issue involved in these grounds relates to disallowance of payment of Rs.2,54,523/- made towards employees' contribution to the Provident Fund and Employee's State Insurance, which have been made before the due date of filing of return of income.

3. Brief facts in this regard are the assessee has deducted PF contribution from its employees, but the same was not deposited in the Government account within the due date prescribed under respective laws. The Id.AO with the aid of section 2(24)(x) r.w.s. 36(1)(va) of the Income Tax Act and following judgment of Hon'ble Jurisdictional High Court in the case of CIT v. Gujarat State Road Transport Corporation 366 ITR 170 (Guj) disallowed the claim of the assessee. The action of the AO was confirmed by the Id.CIT(A). Assessee is in further appeal before us.

4. After hearing both the sides on the issue, we find that this issue has been settled by the Hon'ble jurisdictional High Court in two decisions, viz. in the case of Gujarat State Road Transport Corporation Ltd. (supra) and M/s.Checkmate Facility & Electronics Solutions P.Ltd. Vs.DCIT, in R/Tax Appeal No.1256 of 2018 dated 15.10.2018 wherein it is held that the employees' contribution to the Employees' Provident Fund (EPF)/ Employees' State Insurance Corporation (ESIC) deposited beyond the due date prescribed under section 36(1)(va) of the Income-tax Act, 1961 would not be eligible for deduction under section 43B of the Act, even if deposited before the due date of filing the return. Therefore, there is no merit on this issue. Accordingly grounds of the appeal on this issue are rejected.

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

Order pronounced in the Court on 24th April, 2019.

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER
Ahmedabad; Dated

24/04/2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER