

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"A" JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 983/JP/2018
निर्धारण वर्ष / Assessment Year : 2013-14

Rajasthan Cottage Industries Shilpgram Complex, Golimar Garden, Amer Road, Jaipur.	बनाम Vs.	The ITO, Ward 5(1), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABFR 1944 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Madhukar Garg (C.A.)
राजस्व की ओर से / Revenue by : Shri K.C. Gupta (JCIT)

सुनवाई की तारीख / Date of Hearing : 16/04/2019
उदघोषणा की तारीख / Date of Pronouncement: 24/04/2019

आदेश / ORDER

PER: VIJAY PAL RAO, J.M.

This appeal by the assessee is directed against the order dated 21.06.2018 of the Id. CIT (A), Jaipur for A.Y. 2013-14. The assessee has raised the following grounds:-

"1. That the learned CIT(Appeals) has erred in confirming the disallowance of Rs. 5,96,932/- being employees' Contribution towards PF and Rs. 6492/- being employees' contribution towards ESI on the ground that the same were deposited late. The said action is illegal and unjustified.

2. That the learned CIT(Appeals) has erred in relying on the decisions of Hon'ble Rajasthan High Court without disclosing the same to the assessee. The said action is against the principles of natural justice and the addition confirmed deserves to be deleted."

2. The only issue in this appeal is regarding disallowance of employees contribution to PF & ESI after the due date of payment as per respective Acts PF & ESI however, it was paid before the due date of filing of return of income U/s 139(1) of the Act. The Id. CIT(A) has accepted the fact that the assessee has paid the contribution towards to PF & ESI prior to due date of filing of return of income U/s 139(1) of the Act but the claim was disallowed on the basis of the decision of Hon'ble jurisdictional High Court in case of in case of **PCIT vs. M/s Rajasthan Renewable Energy Corporation Limited** in DB ITA No. 10,11 & 12/2018 dated 13.03.2018 which was misunderstood by the Id. CIT(A). We note that there was typographical mistake in the said decision of the Hon'ble jurisdictional High Court whereas the Hon'ble High Court has followed the earlier decision in case of **CIT vs. Jaipur Vidyut Vitran Nigam Ltd.** 363 ITR 307. The Id. AR has pointed out that the decision of Hon'ble Jurisdictional High Court in case of **PCIT vs. Rajasthan State Beverages Corporation Ltd.** 250 taxmann 32 has been upheld by the Hon'ble Supreme Court reported in 250

taxmann 16. Thus, the issue is covered by a series of decisions of Hon'ble Jurisdictional High Court including the decision in case of PCIT vs. Rajasthan State Beverages Corporation Ltd. (supra) as held in para 5 as under:-

"5. So far as the question relating to privilege fees amounting to Rs.26.00 Crores in the instant year as well as the deduction of claim of Rs.17,80,765/- on account of Provident Fund (PF) and ESI is concerned, this Court has extensively considered the aforesaid two questions in assessee's own case vide judgment and order dt.26.05.2016 referred to (supra) and has held that the privilege fees being a revenue expenditure, is required to be allowed as a revenue expenditure. This court in the aforesaid case has also allowed the claim of the assessee, in so far as payment of PF & ESI etc. is concerned, on the finding of fact that the amounts in question were deposited on or before the due date of furnishing of the return of income and taking in consideration judgment of this Court in Commissioner of Income Tax Vs. State Bank of Bikaner & Jaipur and Commissioner of Income Tax Vs. Jaipur Vidyut Vitaran Nigam Ltd. (2014) 363 ITR 70 (Raj.) and accordingly both the questions are covered by the aforesaid judgment and against the revenue."

The said decision was challenged by the Revenue before the Hon'ble Supreme Court but the SLP filed by the Revenue has been dismissed by the Hon'ble Supreme Court reported 250 taxmann 32. Accordingly,

disallowances/additions made by the AO on account of employees contribution to PF & ESI is deleted and claim of the assessee is allowed.

In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 24/04/2019.

Sd/-

(विक्रम सिंह यादव)
(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

Sd/-

(विजय पाल राव)
(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 24/04/2019.

*Santosh.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Rajasthan Cottage Industries, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, Ward 5(1), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 983/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar