

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'B' अहमदाबाद ।

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1770/Ahd/2018

(निर्धारण वर्ष / Assessment Year: 2015-16)

Tax Tech India Pvt. Ltd. Kh-0 North Star Building, Sargashan Corss Road, Sarkhej Gandhinagar Highway, Gandhinagar	बनाम/ Vs.	Dy. CIT Gandhinagar Circle 4 th Floor, Block No. 14 Udyog Bhavan, Sector-11 Gandhinagar
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAB CT8 854 B		
(अपीलार्थी/ Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri S. A. Sukhadia & CO., AR
प्रत्यर्थीकीओरसे / Respondent by:	Shri Mudit Nagpal, Sr. DR

सुनवाईकीतारीख/ Date of Hearing	16/09/2019
घोषणाकीतारीख / Date of Pronouncement	01/10/2019

आदेश/O R D E R

PER AMARJIT SINGH - AM:

The appeal filed by the Assessee for A.Y. 2015-16, arise from order of the CIT(A) – Gandhinagar, Ahmedabad dated 08.06.2018, in proceedings under section 143(3) of the Income Tax Act, 1961; in short “the Act”.

2. The assessee has filed this appeal against the order of Ld. CIT(A) Gandhinagar in confirming the addition made by the AO on disallowance u/s. 36(1)(va) r.w.s 2(24)(x) of the Act of Rs. 4,04,947/- in respect of delay in making payment of employees' contribution toward Provident Fund.

3. The fact in brief is that assessee has filed return of income of Rs. 66,81,230/- and assessment u/s. 143(3) of the Act was finalized on 29.09.2017. During the course

of assessment the AO noticed that assessee has made payment of Rs. 4,04,947/- towards employees' contribution to the Provident Fund and Rs. 25,096/- towards employees' contribution to ESI payment after the due date as prescribed in the relevant Act. Consequently the AO has disallowed employees' contribution to Provident Fund and ESI aggregating to Rs. 4,30,043/- and added to the total income of the assessee.

4. The assessee has filed appeal before the Ld. CIT(A). Ld. CIT(A) has dismissed the appeal of the assessee after placing reliance on the decision of Hon'ble Gujarat High Court in the case of CIT vs. Gujarat State Road Transport Corporation (2014) 41 taxmann.com 100 (Guj.).

5. We have heard the rival contention and perused the material on record. The assessee has not deposited the contribution received from the employees under Provident Fund and ESI within the due date as prescribed in the Provident Fund Act and ESI Act. We consider that the decision of Hon'ble Gujarat High Court in the case of CIT vs. Gujarat State Road Transport Corporation 265 CTR 64 has held that when the employer has not credited the sum received by it as employees' contribution to employees account in the relevant fund on or before the due date prescribed in Explanation to Sec. 36(i)(va) the assessee shall not be entitled to deduction. In view of the above facts and judicial findings we uphold the decision of Ld. CIT(A). Accordingly, the appeal of the assessee is dismissed.

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

This Order pronounced in Open Court on	01/10/2019
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Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Ahmedabad: Dated 01/10/2019

TANMAY

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आदेश की प्रतिलिपि अर्पित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)

5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।