

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “SMC” BENCH

**(BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 1005/AHD/2017
(Assessment Year: 2012-13)**

M/s. Hitkari Packaging Pvt. Ltd. 339, G.I.D.C. Estate, Waghodia, Vadodara-391760	V/S	Income Tax Officer, Ward- 1 (1)(3), Vadodara
(Appellant)		(Respondent)

PAN: AAACH5261K

**Appellant by: Shri Anil R. Shah and Kinjal Shah, AR
Respondent by : Shri N.K. Goel, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 16 -10-2019
Date of Pronouncement : 18 -11-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal filed by the Assessee is directed against the order of the Ld. CIT(A)-1, Vadodara dated 01.02.2017 pertaining to A.Y. 2012-13 and following grounds have been taken:

The CIT(A) has erred both in Law and in Fact in confirming invoking of Sec.68 by the Assessing Officer and confirming the addition thereunder:

1. Your Appellant submit that Sec.68 does not apply to facts of the case and keeping in mind provisions of Law and facts of the case, the amount of Rs. 5 lacs has been duly explained and the identity, creditworthiness of the depositor was proved as well as the genuineness of transaction was also proved and therefore the addition of Rs.5 lacs

is required to be deleted.

Without prejudice and in the alternative if the income is liable to be added then should be income of business and not from other sources it having direct relation/connection which source of income.

2. The CIT(A) also erred in confirming disallowance of Rs.24,015/- u/s.36(l)(va) r.w.s.2(24)(x) of the Act and since employer contribution towards P.P. has been incurred during course of business and for purpose of business and the same is deposited before filing Return of Income, the CIT(A) ought to have deleted the disallowance.

3. The CIT(A) also erred in confirming disallowance of Rs. 13,644/- being interest on TDS paid by your Appellant.

It is submitted that the expenditure incurred during course of business and since it is not in the nature of penalty or for any in the Law the CIT(A) ought to have deleted there under.

It is therefore submitted that reliefs claimed above be allowed and the order of CIT(A) be modified accordingly.

2. Facts of the case are that the assessee is in the business of Manufacturing of corrugated boxes.
3. During the course of assessment proceedings, assessee was asked to furnish evidences to prove the identity, genuineness of the transaction, creditworthiness of the depositors. On verification of the details furnished by the assessee, it was noticed that the assessee has received a new unsecured loan of Rs. 5,00,000/- from Shri Zulfikar a. Shaikh on 12th March, 2011. On perusal of the confirmation of account, which appears to be signed by the so called

depositor. However, the assessee has not mentioned either the PAN or furnished the copy of the return of income filed by the said party.

4. But ld. A.O. was not agree with the justification given by the assessee and made addition of Rs. 5,00,000/-.
5. Thereafter assessee preferred first statutory appeal before the ld. CIT(A) who confirmed the action of the ld. A.O.
6. Now assessee has come before us and he has stated that he has repaid the amount given confirmation accounts wherein PAN number, Aadhar Card number and amount of Rs. 5,00,000/- has been paid in installment and same is at paper book on page no. 96 & 97.
7. Thus, in our considered opinion, in such circumstances onus of bonafides of fairly discharge addition cannot be sustained.
8. In this result, this ground of appeal of assessee is allowed.
9. Now we come next ground relating to disallowance of Rs. 24051/- u/s. 36(1)(va) r.w.s. 2(24)(x) of the Act regarding late deposit of employees' contribution to Provident Fund. Lower authorities disallowed an amount of Rs. 24051/-.
10. Now assessee has come before us.
11. In our considered opinion, this ground of appeal is against the assessee in view of the Hon'ble Jurisdictional High Court order in the matter of GSRTC (2014)

41 Taxmann.com 100 wherein in similar circumstances disallowances were confirmed by the Hon'ble High Court.

12. Now we come next ground relating to disallowance of Rs. 13644/- being interest on TDS paid by the appellant.

13. Ld. A.R. stated that that she does not want to press the ground on account of smallness of amount.

14. In the result, appeal filed by the Assessee is partly allowed.

Order pronounced in Open Court on	18 - 11- 2019
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Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER **True Copy**
Ahmedabad: Dated 18 /11/2019

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad