

**आयकरअपीलीयअधिकरणसूरतन्यायपीठ,सूरत**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,SURAT**  
**BENCH,SURAT**

**श्रीसीएमगर्ग, न्यायिकसदस्यएवंश्रीओपीमीना, लेखासदस्यकेसमक्ष**  
**BEFORE SHRI C.M.GARG, JUDICIAL MEMBER AND**  
**SHRI O.P.MEENA, ACCOUNTANT MEMBER**

**आयकरअपीलसं. / ITA No.2436/AHD/2014/SRT**

**निर्धारणवर्ष/ Assessment Year: 2010-11**

Dy. Commissioner of Income Tax,  
TDS Circle,  
Surat.

**(अपीलार्थी/Appellant)**

अपीलार्थीकीओरसे/ Appellant by

प्रत्यर्थीकीओरसे /Respondent by

सुनवाईकीतारीख/Date of Hearing

घोषणाकीतारीख /Date of Pronouncement

**Vs.** Oil & Natural Gas Corporation  
Ltd.,  
Hazira Plant, P.O. ONGC Nagar,  
Surat.

**[PAN: AAACO 1598A]**

**(प्रत्यर्थी/Respondent)**

: ShriSaurabh N. Soparkar,  
Sr. Advocate

: Mrs. R.Kavitha, Sr. DR

: 05-03-2018

: 16-03-2018

**आदेश /ORDER**

**PERC.M.GARG, JUDICIAL MEMBER:**

This appeal has been filed by the Revenue challenging the order of Commissioner of Income Tax (Appeals)-IV, Surat ('CIT(A)' for short) dated 16.06.2014 for the assessment year (AY) 2010-11 passed in the first Appeal No.CAS-IV/52/13-14.

2. Ground Nos.4 to 6 of Revenue are of general in nature. The remaining effective grounds raised by Revenue reads as under:

1. *The Ld.CIT(A) has erred on facts and in law in deleting the addition made u/s.201 (1) of the I.T. Act amounting to Rs. 1,17,80,353/- and the interest charged u/s. 201(1A) amounting to Rs. 42,40,944/- made by the A.O.*
2. *The Ld. CIT(A) erred on facts and in law by not appreciating that the specified allowances u/s. 10(14)(i) are exempt to the extent these are actually incurred for that purpose.*
3. *The Ld. CIT(A) erred on facts and in law by allowing the Uniform allowance, ignoring the fact whether such claim fulfilled the conditions as laid down in sec. 10(14)(i) of the I.T. Act.*

3. We have heard the arguments of both sides and carefully perused the relevant material placed on the record of the Tribunal. The Id. Departmental Representative (DR) submitted that the first appellate authority was not correct on facts and in law in deleting the addition made u/s. 201(1) of the Income Tax Act, 1961 (for short 'the Act') and the interest charged u/s. 201(1A) of the Act as the specified allowance u/s. 10(14)(i) of the Act are exempt to the extent those are actually incurred for that purpose. The Id. DR submitted that the Id. CIT(A) has erred by allowing the uniform allowance ignoring the fact that whether such claim fulfills the conditions as made down in s. 10(14)(i) of the Act. The Id. DR finally submitted that impugned order may kindly be set aside by that of the AO.

4. The Id. Senior counsel strongly supported the first appellate order and submitted that as per Circular No.15 dated 08.05.1969 a declaration from the employee that conveyance owned by him and is being used by him for the purpose of employment may be considered adequate by disbursing officer for the purpose of calculation of tax deduction at source u/s. 192 of the Act. The Id. senior counsel further submitted that the reimbursement of uniform allowance on the basis of declaration by the employees has been decided in

favour of the appellant in his own case of *Baroda Division by the ITAT 'D' bench, Ahmedabad in ITA No.184-185, and 1066 and 609-611/Ahd/2010 for AY 2009-10*. Therefore, the Id. First appellate authority was right in allowing claim of assessee and in deleting the addition made on both the counts.

5. On careful consideration of above rival submissions on being asked by the bench, the Id. AR could not controvert the fact that in the similar facts and circumstances on the similar issue in the case of Baroda division(supra) the Tribunal has taken a view that the claim is allowing on the basis of declaration furnished by the employee. Obviously, uniform given to an employee for using the same during his duty hours is presumed to be used for the purpose of employment only and when the view has been taken by the Tribunal on the similar issue in the case of Baroda Division of ONGC then, we are unable to see any reason to take a deviated or different view on the same issue. It is pertinent to note that the Id. DR has vehemently relied on the CBDT Circular No.8/12 dated 05.10.2012 which is pertaining to the LTC allowance and the same is not applicable to the facility of uniform to the employees during duty hours.

6. In view of our discussion, when a circular of CBDT enabling the assessee for non deduction of tax from the reimbursement of allowances on the basis of utilization certificate of employee then the view which has already taken by the Tribunal in assessee's own case supports the contention of the assessee that there was no liability for deduction of tax

from the payments made to the employees as uniform allowance. Therefore, in our considered opinion, conclusion drawn by the first appellate authority is correct and sustainable and hence, we are unable to see any reason to interfere with the same and consequently we uphold the same. Accordingly, grounds raised by the Revenue are dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

*Order pronounced in the open court on this day of 16<sup>th</sup> March, 2018.*

**Sd/-**

(ओपीमीना)

(O.P.MEENA)

**लेखासदस्य/Accountant Member**

सूरत/Surat; दिनांक Dated :16<sup>th</sup>March, 2018

EDN

**Sd/-**

(सीएमगर्ग)

(C.M.GARG)

**न्यायिकसदस्य/Judicial Member**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकरआयुक्त(अपील) / The CIT, Surat;
4. Pri. CIT, Surat;
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, सूरत/DR, ITAT, Surat;
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति//True Copy//

सहायकपन्जीकर / **Assistant Registrar**

आयकर अपीलीय अधिकरण, सूरत / ITAT, Surat