

आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

BEFORE SHRI PAWAN SINGH, Hon'ble JUDICIAL MEMBER
AND SHRI ARJUN LAL SAINI, Hon'ble ACCOUNTANT MEMBER
(Virtual Court Virtual Hearing)

आ.अ.सं./I.T.A No.4/SRT/2017

निर्धारण वर्ष / Assessment Year: 2013-14

Ascent Meditech Ltd., Survey No.678/13, 1 st Floor, Sai Industrial Estate, Phase-2, Naroli, Silvassa. [PAN: AAKCA 6302 L]	Vs.	Dy.Commissioner of Income Tax, Vapi Circle, Vapi.
अपीलार्थी / Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओरसे /Assessee by	Shri Parlimalsinh B.Parmar – AR
राजस्वकीओरसे /Revenue by	Mrs. Anupam Singla – Sr.DR

सुनवाईकीतारीख/ Date of hearing:	01.10.2020
उद्घोषणाकीतारीख/Pronouncement on:	01.10.2020

आदेश / O R D E R

PER PAWAN SINGH, JM:

1. This appeal by the Assessee is directed against the order of Ld. Commissioner of Income Tax (Appeals), Valsad dated 22.05.2017, which in turn arise from the assessment order passed under section 143(3) dated 28.03.2016 for the assessment year 2013-14.

2. Grounds raised by the Assessee read as under:

- “1. The ld.CIT(A) has erred in law and on facts of the case in confirming the action of the ld. AO of disallowing Employee's contribution towards Provident Fund amount to Rs.13,10,099/- u/s 36(1)(va) R.W.S.2(24)(x) of the Act.
2. Both the lower authorities have passed the orders without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. This action of the lower authorities is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.

3. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the ld. AO in levying interest u/s.234A/B/C of the Act.*
4. *The learned CIT(A) has erred in law and on facts of the case in confirming action of the ld. AO in initiating penalty u/s.271(1)(c) of the Act.*
5. *The appellant craves leave to add, amend, alter, edit, delete, modify or change all or any of the grounds of appeal at the time of or before the hearing of the appeal.*

3. At the outset, on hearing the learned Authorised Representative(Ld. AR) of the assessee submits that the grounds raised by the assessee is covered against the assessee by the decision of Hon'ble Jurisdictional High Court in the case of Gujarat State Road Transport Corporation (GSRTC) reported 366 ITR 170. The ld.AR of the assessee submits that since the issue is squarely covered against the assessee, therefore the appeal may be dismissed as not pressed.

4. On the other hand, the ld. Departmental Representative (DR) agreed with the submission of the ld.AR of the assessee. The Ld. DR for the revenue submits that the appeal may be dismissed.

5. We have considered the submissions of the Ld. Representative of the parties and perused the order of the lower authorities. The assessing officer (A.O.) while passing the assessment order noted that the assessee deposited employee contribution of Provident Fund after due date of deposit prescribed under Provident Fund and Miscellaneous Provisions Act. The A.O. after issuing show cause notice to the assessee made addition of Rs. 13,10,099/- under section 36(1)(v) read with section 2(24)(x) of the Act. On appeal before

learned Commissioner (Appeals) the action of A.O. was upheld. Before us the Ld. AR for the assessee fairly agreed that the issue is covered by the decision of Hon'ble Gujarat High Court in the case of CIT Vs Gujarat State Road Transport Corporation, reported (2014) 41 taxmann.com 100/(366 ITR 170(Supra). Considering the submissions of the parties that the issue raised in present appeal is covered by the decisions of Hon'ble Jurisdictional High Court in CIT Vs GSRTC (supra) wherein it was held that sec. 43B of the Act is not applicable for the delayed payments of employees contribution to PF as under section 36(1)(va) r.w.s 2(24)(x) of the Act. In the light of above discussion and facts and circumstances and judicial decision Hon`ble High Court we upheld the addition made by the ld.AO, accordingly appeal of the assessee is dismissed.

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

7. Order pronounced in the open court on 01-10-2020 while hearing the appeal.

Sd/-
(Dr ARJUN LAL SAINI)

(लेखा सदस्यतथा/ACCOUNTANT MEMBER) (न्यायिक सदस्यकेसमक्ष /JUDICIAL MEMBER)

सुरत/ **Surat**, दिनांक **Dated:** 1st Oct, 2020

S.Gangadhara Rao, Sr.PS

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

Sd/-
(PAWAN SINGH)

By order

/ / **TRUE COPY** / /

Assistant Registrar, Surat