

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI WASEEM AHMED, ACCOUNTANT MEMBER)**

[Through Virtual Court]

**ITA. No: 1955/Ahd/2018
(Assessment Year: 2014-15)**

Shri Rajendra Giansingh Bhardwaj 24, Arbudanagar Society, Mission road, Nadiad- 387002 (Dist. Kheda)	V/S	The Income-tax Officer, Ward-5, Nadiad (Dist. Kheda)
PAN No. ACIPB4628H (Appellant)		(Respondent)

**Appellant by : (Written submission)
Respondent by : Shri Vinod Tanwani, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 13-11-2020
Date of Pronouncement : 27 -11-2020

PER MAHAVIR PRASAD, J.M.

1. This appeal filed by the Assessee is directed against the order of the Commissioner of Income Tax (“hereinafter called CIT(A)”) order no. CIT(A)-/Vadodara-2/10213/16-17 order dated 11/07/2018 arising out of assessment order dated 21/04/2016.

Assessee has taken solely ground that ld. CIT(A) has erred in law and on the facts for not allowing the deduction of Rs. 3,11,352/- for P.F. contribution of employees.

2. Briefly stating the facts of the case are that the assessee filed his return of income on 25.11.2014 declaring total income at Rs.11,48,019/-. This return was revised on 03.08.2015 declaring total income at Rs.14,13,055/-. The assessee is engaged in the business of civil construction specially the construction of bridges in the name of M/s Bharadwaj Construction. After considering the submission of assessee, AO made certain additions. The additions which are subject matter of present appeal are as under:-

“During the course of assessment proceedings, it was noticed that the assessee has received payment of Rs.3,22,036/- on 30/01/2014 from M.V. Omni Pvt. Ltd. but not offered the same for taxation. Hence, the assessee was asked to explain as to why the amount of Rs.3,22,036/- should not be added in his total income. In response to the same, the assessee has not offered satisfactory explanation however, he has furnished the ledger copy of account of M.V. Omni Pvt. Ltd. from his books of account. On verification of the said ledger account, it is found that the assessee has not accounted the payment of Rs.3,22,036/- received from M.V. Omni Pvt Ltd.. Thus, the assessee has failed to offer the income of Rs.3,22,036/- for taxation. During the course of assessment proceedings, the assessee has failed to justify the same, hence, in the absence of any plausible explanation and supporting evidence, the amount of Rs.3,22,036/- is added to the total income of the assessee.”

3. Against the said addition, assessee preferred first statutory appeal before the ld. CIT(A) who confirmed the addition made by the Ld. A.O. In view of the Jurisdictional High Court Judgment in the matter of CIT vs. Gujarat State Road Transport Corporation wherein it has been decided that if there is any delay on the part of the employer for payment of employees contribution towards the Provident Fund then in such case deduction shall not be allowable to the employer/assessee.
4. Now assessee has filed second statutory appeal before us.

5. We have gone through the relevant record and perused material on record and heard Ld. D.R. and assessee has filed written submission and he has fairly conceded that in view of the judgment of Hon'ble Gujarat High Court in the matter of CIT vs. Gujarat State Road Transport Corporation (2014) 366 ITR 107 (Guj.) is against the assessee. However, since matter is pending before the Supreme Court, therefore, this appeal may be kept in abeyance or adjournment should be given to the assessee.
6. In our considered opinion, this cannot be on this ground neither for adjournment nor for matter be kept in abeyance merely on the basis that matter is pending before the Supreme Court. However, it will be open for assessee to file M.A as per law. In case matter is decided in favour of the assessee and against the revenue. Therefore, we do not find any merit in the written submission of the assessee. Therefore, appeal of the Assessee is dismissed.
7. In the result, appeal filed by the Assessee is dismissed.

Order pronounced in Open Court on	27 - 11- 2020
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Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 27/11/2020

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