

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B" : HYDERABAD**

(THROUGH VIDEO CONFERENCE)

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 2332/HYD/2018

Assessment Year: 2014-15

Madhurai Tutikorin
Expressways Limited
Hyderabad

Vs

Dy.CIT
Circle 16(2)
Hyderabad

PAN: AAECM7403L
(Appellant)

(Respondent)

For Assessee : Shri P.Murali Mohana Rao,
Adv.
For Revenue : Shri Rohit Mujumdar, DR

Date of Hearing : 06-01-2021
Date of Pronouncement : 11-01-2021

ORDER

PER BENCH :

This assessee's appeal for AY.2014-15 arises from the order of Commissioner of Income Tax (Appeals)-4 [CIT(A) for short] Hyderabad dated 16.08.2018.

2. Heard both the parties. Case file perused.

3. The assessee's sole substantive grievance pleaded in the instant appeal challenges prior period/pre-operative expenditure

disallowance amounting to Rs.12,91,765/- made in both the lower authorities respective orders. Mr.Mujumdar, learned Departmental Representative vehemently contended during the course of hearing, that both the lower authorities have rightly made the impugned disallowance of prior period expenses since it does not pertain to relevant Previous Year before us. More so when the assessee also follows the Mercantile system of accounting. We find no merit in Revenue's contentions. The fact remains that the department itself has not allowed the impugned expenses in the year it accrued and also follows the same course of action in the year of crystallisation followed by payment as well.

3.1. Hon'ble Gujarat high court's decision in PCIT vs. Adani Enterprises Ltd. in Income Tax Appeal no.566/2016 holds that such a disallowance is a revenue neutral instance since the assessee is being assessed at maximum marginal rate in both the year of accrual and crystallisation of the prior period expenses is issue. The factual position is no different in this case as well. We follow the very same reasoning herein as well and direct the Assessing Officer to delete the impugned disallowance.

4. This assessee's appeal is allowed.

Pronounced on 11th January, 2021.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Dated: the 11th January, 2021.

***gmv**

Copy of the Order forwarded to:

1. Madhurai Tuticorin Expressways Limited, Plot no.1129/A
Madhucon House, Road no.36 Jubilee Hills, Hyderabad 500 033
2. Dy.CIT, Circle 16(2), Hyderabad.
3. ACIT, Range 16, Hyderabad.
4. CIT(A)-4, Hyderabad.
5. Pr.CIT-4, Hyderabad.
6. DR ITAT, Hyderabad.
7. Guard File.