

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'A' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMEBR
& SHRI WASEEM AHMED, ACCOUNTANT MEMEBR

आयकर अपील सं./I.T.A. No. 1362/Ahd/2019
(निर्धारण वर्ष / Assessment Year : 2016-17)

Arvind Goodhill Suit Manufacturing Pvt. Ltd. Arvind Mill Premises, Naroda Road, Ahmedabad	बनाम/ Vs.	The ACIT Circle - 1(1)(1), Pratyaksh Kar Bhavan, Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AALCA1964H		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/Appellant by :	Shri Dhrunal Bhatt, A.R.
प्रत्यर्थी की ओर से / Respondent by :	Shri S. S. Shukla, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	26/04/2022
घोषणा की तारीख /Date of Pronouncement	28/04/2022

ORDER

PER MAHAVIR PRASAD, JM:

The appeal has been preferred by the assessee against the order of the Commissioner of Income Tax (Appeals)-1, Ahmedabad ('CIT(A)' in short) vide Appeal No. CIT(A)-1/DCIT Cir.1(1)(1)/10280/2018-19 dated 15.07.2019 arising in the assessment order dated 21.12.2018 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY. 2016-17.

2. The ground of appeal raised by assessee reads as under:

“1. *On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming disallowance to the extent of Rs.73,59,568 out of the total disallowance of Rs.75,18,628/- made by the learned Assessing Officer in respect of late payment of employees' contribution to P.F. and ESIC.* “

3. The only disputed issue in this appeal, as reflected in the relevant grounds of appeal, is the disallowance sustained by the learned CIT(A) to the extent of Rs.73,59,568 on account of late payment of employees' contribution to P.F. and ESIC. The Assessing Officer made total disallowance of Rs.75,18,628/- out of which contribution to ESIC of Rs.1,59,060/- was paid by the assessee-company on 22nd June, 2015 as against the due date of 21st June, 2015. The learned CIT(A) allowed deduction in respect of the aforesaid sum of Rs.1,59,060/- on the ground that 21st June, 2015 was a Sunday and on that account payment could not have been made by the appellant-company. However, the disallowance of the remaining amount of Rs.73,59,568/- was confirmed by the learned CIT(A).

4. At the time of hearing Id. A.R. Shri Dhrunal Bhatt fairly conceded that matter is against the assessee in view of the Hon'ble Gujarat High Court order in the case of *CIT vs. GSRTC* and requested that he does not want to contest the appeal. Since Id. A.R. has conceded himself and matter is against him squarely covered by judgment of Hon'ble Gujarat High Court in the matter of *CIT vs. GSRTC 366 ITR 170* wherein it is held as under:

"Section 43B, read with section 36(1)(va) of the Income-tax Act, 1961 - Business disallowance — Certain deductions to be allowed on actual payment (Employees contribution) - Whether where an employer has not credited sum received by it as employees' contribution to employees' account in relevant fund

on or before due date as prescribed in Explanation to section 36(1)(va), assesses shall not be entitled to deduction of such amount though he deposits same before due date prescribed under section 43B i.e., prior to filing of return under section 139(1) -Held, yes - Assesses State transport corporation collected a sum being provident fund contribution from its employees - However, it had deposited lesser sum in provident fund account — Assessing Officer disallowed same under section 43B -However, Commissioner (Appeals) deleted disallowance on ground that employees contribution was deposited before filing return - Whether since assessee had not deposited said contribution in respective fund account on date as prescribed in Explanation to section 36(1)(va), disallowance made by Assessing Officer was just and proper - Held, yes [Para 8] [In favour of revenue]

5. Since, matter is squarely covered against the assessee by the judgment of Hon'ble Jurisdictional High Court, thus, in view of the above, we dismiss the appeal of the assessee.

6. In the result, the appeal filed by the Assessee is dismissed.

This Order pronounced in Open Court on 28/04/2022

Sd/-

(WASEEM AHMED)

ACCOUNTANT MEMBER

Ahmedabad: Dated 28/04/2022

Sd/-

(MAHAVIR PRASAD)

JUDICIAL MEMBER

True Copy

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।