

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC-2” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

**ITA No.261/Ahd/2020
Assessment Year: 2018-19**

Chanasma Haluka Sarvodaya vs. DCIT, CPC, Bangalore.
Majur Kamdar Sahkari Mandali Ltd.,
124, Urmi Shoping Centre,
Opp. B.K. Cinema
Mehsana – 384 002.
[PAN – AAAAC 0434 B]
(Appellant) (Respondent)

Appellant by : None
Respondent by : Shri C.S. Sharma, Sr. D.R.

Date of hearing : 17.06.2022
Date of pronouncement : 13.07.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This is an appeal filed by the assessee against the order dated 27.01.2020 passed by the CIT(A), Gandhinagar for A.Y. 2018-19.

2. The grounds of appeal are as under:

- “1.1 The order passed u/s.250 on 27.01.2020 for A.Y. 2018-19 by CIT(A)-7, Ahmedabad upholding the disallowance of employees contribution to PF & ESIC of Rs.32,30,290/- made as prima facie adjustments by CPC Bangalore is wholly illegal unlawful and against the principles of natural justice.
- 1.2 The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the submissions made and evidence produced by the appellant with regard to the impugned addition.

- 2.1 *The Ld. CIT(A) has grievously erred in law and on facts in confirming disallowance of employees contribution to PF & ESIC of Rs.32,30,290/- made as prima facie adjustment by CPC.*
- 2.2 *That in the facts and circumstances of the case as well as in law, the Ld. CIT(A) ought not to have upheld the disallowance of employees contribution to PF & ESIC of Rs.32,30,290/- as prima facie adjustment made by CPC.*
- 3.1 *The Ld. CIT(A) has failed to appreciate that when the issue under appeal is highly controversial and SLP against it has been admitted by Hon'ble Supreme Court, the adjustment made by CPC was illegal and unlawful.*
- It is, therefore, prayed that the disallowance of Rs.32,30,290/- upheld by the CIT(A) may kindly be deleted."*

3. The assessee is a co-operative society engaged in supplying manpower, transport and labour contractor in ONGC. The assessee filed return of income on 30.10.2018 declaring total income of Rs.6,87,723/-. The Assessing Officer made disallowance of employees contribution to PF and ESIC of Rs.32,30,290/-.

4. Being aggrieved by the assessment order the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. At the time of hearing none appeared on behalf of the assessee despite giving notices. There is no fresh address filed by the assessee. Hence, we are proceeding on the basis of the submissions made before the Assessing Officer as well as before the CIT(A) by the assessee.

6. Ld. DR submitted that the issue contested by the assessee in the present appeal appears to be covered against the assessee by the judgement of Hon'ble jurisdictional High Court in the case of **CIT vs. Gujarat State Road Transport Corporation, 366 ITR 170 (Guj.)**

7. We have heard the Ld. D.R. and perused all the relevant material available on record. It appears that the issue contested by the assessee is covered against the assessee by the judgement of Hon'ble jurisdictional High Court in the case of CIT vs. Gujarat State Road Transport Corporation (supra) wherein the Hon'ble High Court

held that when the assessee had not deposited the mandatory contribution of PF and ESIC as per the prescribed date in those particular statute then the assessee cannot claim the deduction on the basis of Section 36(1)(va) of the Act. Thus, the appeal of the assessee is dismissed.

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

Order pronounced in the open Court on this 13th day of July, 2022.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 13th day of July, 2022

PBN/*

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*