

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री गिरीश अग्रवालेखा सदस्य के समक्ष ,
Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.95/Kol/2023
(Assessment Year: 2015-16)

M/s G.S. Atwal & Co.(Engg) Pvt. Ltd.....Appellant
4B, Little Russel Street,
Kolkata- 700071.
[PAN: AABCG0816E]

vs.

DCIT, Circle-11(1), Kolkata..... Respondent

Appearances by:

Shri Soumitra Choudhury, AR, appeared on behalf of the appellant.

Shri P. P. Barman, Addl. CIT, appeared on behalf of the Respondent.

Date of concluding the hearing : November 30, 2023

Date of pronouncing the order : December 08, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा/ Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 03.01.2023 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

"1. For that on the facts of the case, the order passed by the Ld. C.I.T.(A) on 03.01.2023 is completely arbitrary, unjustified and illegal.

2. For that on the facts of the case, the Ld. C.I.T.(A) was wrong in confirming the disallowance towards employees contribution towards

P.F. amounting to Rs.70,17,377/- and ESI of Rs.34,653/-, totalling at Rs.70,52,030/- which is completely arbitrary, unjustified and illegal.

3. For that on the facts of the case, the Ld. C.I.T.(A) was wrong in not considering the facts that the payment was made towards contribution of P.F. of Rs. 70,17,377/- & E.S.I. of Rs.34,653/-, before filing of the return u/s. 139(1) of the I.T. Act on 18.09.2015 or grace period within 20th of the following month, allowable u/s. 36(1) (va) /43B covered by various Court's judgements as such his finding is completely arbitrary, unjustified and illegal.

4. For that the amendment brought in by Finance Act, 2021 on this issue has been held to be prospective in nature in the case of Shri Harendra Nath Biswas (supra), therefore, Bench reiterate the same view that the amendment/explanation brought in by Finance Act, 2021 with effect from 01.04.2021 on this issue is prospective; and taking note that the relevant assessment year i.e. 2015-16 the ibid explanation brought in by Finance Act, 2021, cannot be used/applied to unsettle the settled position of law passed by the Hon'ble jurisdictional High Court in the case of Vijayshree Ltd. (supra), since there is no retrospective legislative over-ruling. Therefore, the finding of the Ld. CIT(A) is completely arbitrary, unjustified and illegal.

5. For that on the facts of the case, the Ld. C.I.T. (A) was wrong in confirming the disallowance of Interest on P.F. amounting to Rs.3,71,386/- & 12,404/-, totalling at Rs.3,83,790/- which is an allowable expenditure u/s. 37 of the I.T. Act, as such his finding is completely arbitrary, unjustified and illegal.

5. For that the appellant reserves the right to adduce any further ground or grounds, if necessary, at or before the hearing of the appeal.”

3. At the outset, the ld. Counsel for the assessee filing a letter dated 30.11.2023 has stated that as per the instruction of his client, he withdraw all the grounds of appeal. The ld. DR has no objection in this regard. In view of this, the appeal of the assessee is dismissed as withdrawn.

3. In the result, the appeal of the assessee stands dismissed as withdrawn.

Kolkata, the 8th December, 2023.

Sd/-
[गिरीश अग्रवाल/Girish Agrawal]
लेखा सदस्य/Accountant Member

Sd/-
[संजय गर्ग/Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 08.12.2023.

RS

Copy of the order forwarded to:

1. M/s G.S. Atwal & Co.(Engg) Pvt. Ltd
2. DCIT, Circle-11(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches