

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. M. BALAGANESH, ACCOUNTANT MEMBER AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 1942/DEL/2024
(Assessment Year : 2020-21)

Caparo Engineering India Ltd., 1010, 10 th Floor, Kailash Building, 26 KG Marg, New Delhi – 110 001 PAN No. AABCC 7862 N (APPELLANT)	Vs.	DCIT Circle – 4(2), CR Building ITO, New Delhi – 110 001 (RESPONDENT)
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Assessee by	Shri Saurav Kumar, C.A.
Revenue by	Shri Piyush Tripathi, Sr. D.R.

Date of hearing:	27.08.2024
Date of Pronouncement:	28.08.2024

ORDER

PER M. BALAGANESH, ACCOUNTANT MEMBER :

1. This appeal filed by the assessee against the order of Learned Commissioner of Income Tax (Appeal) ["Ld. JCIT", for short], dated 07.03.2024 for A.Y. 2020-21.
2. The only issue to be decided in this appeal is as to whether the learned CIT(A) was justified in confirming the disallowance of

Rs.75,36,843/- made by the CPC with regard to payment of gratuity.

3. We have heard the rival submissions and perused the materials available on record. At the outset, we find that assessee had made provision for gratuity in the sum of Rs.4,02,34,592/- and disallowed the same voluntary in the return of income under section 40(A)(7) of the Act. The same was also duly reflected by the tax auditor in the tax audit report in response to reply to clause 21(e) of form 3CD. Out of this provision, the sum of Rs.75,36,843/- was actually paid by the assessee during the year. The proof for such payments were duly enclosed by the assessee before the NFAC, which had been ignored by the learned NFAC. The assessee in the return of income had claimed the gratuity actually paid during the year in the sum of Rs.75,36,843/- as deduction. This was also sought to be disallowed by the CPC under section 143(1) of the Act which stood confirmed by the learned NFAC without even verifying the evidences filed by the assessee attaching the proof of payment of gratuity. Since, no factual finding has been recorded by the lower authorities with regard to the payments made towards gratuity, we deem it fit and appropriate to restore this issue to the file of learned AO to accept the fact of gratuity payments actually made during the year. Learned AO is directed to allow deduction to the extent of actual gratuity payments made during the year. With

these directions, the grounds raised by the assessee are allowed for statistical purposes.

4. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28.08.2024

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER**

Date:- 28.08.2024

*Priti Yadav, Sr. PS**

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI