

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, AHMEDABAD**

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER &  
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. Nos.1222&1223/Ahd/2024  
(Assessment Years: 2012-13 & 2013-14)

Gujarat State Electricity Corporation Ltd., Add: Sardar Patel Vidyut bhavan, Race Course Circle, Baroda-390007	Vs.	Deputy Commissioner of Income Tax, Circle-1(1)(1), Vadodara
[PAN No.AAACG6864F]		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	Shri Manish J. Shah & Shri Rushin Patel, A.Rs.
<b>Respondent by:</b>	Shri Prothviraj Meena, CIT DR

<b>Date of Hearing</b>	23.10.2024
<b>Date of Pronouncement</b>	23.10.2024

ORDER

**PER DR. BRR KUMAR - ACCOUNTANT MEMBER:**

Both the appeals have been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre, (in short “NFAC”), Delhi, vide orders dated 02.05.2024 & 03.05.2024 passed for A.Ys. 2012-13 & 2013-14.

**ITA No. 1222/Ahd/2024(A.Y. 2012-13)**

2. The Assessee has taken the following grounds of appeal:-

“1. The learned Commissioner of Income Tax (Appeals) erred in law and on facts has confirmed the penalty of Rs.16,00,00,000/- levied under section 271(1)(c) of the Act on the additions made on account of disallowance out of Capital Grants & Subsidies and Consumers Contribution amounting to Rs.47,17,19,100/- without appreciating the fact that the impugned disallowance was a subject matter of long drawn discussion and debate.

The learned Commissioner of Income Tax (Appeals) further erred in law and on facts has totally ignored the fact that on exactly identical facts the penalty for the immediately preceding year in the appellant’s own case has been fully deleted.

2. *The appellant craves leave to add, alter, delete or modify the above ground of appeal either before or at the time of hearing of this appeal.”*

3. At the outset, both the parties fairly submitted that the quantum issue involved in the case pertaining to Capital Grant has been set-aside to the Assessing Officer for examination. Hence, the penalty order levied on that issue passed by the Assessing Officer is subjected to the provision of Section 275(1A) of the Act. Hence, the penalty order passed in this is also being set-aside to the Assessing Officer.

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

**ITA No. 1223/Ahd/2024(A.Y. 2013-14)**

5. The assessee has raised the following grounds of appeal:

*“1. The learned Commissioner of Income Tax (Appeals) erred in law and on facts has confirmed the penalty of Rs. 33,00,00,000/- levied under section 271(1)(c) of the Act on the additions made on account of disallowance out of Capital Grants & Subsidies and Consumers Contribution and Liquidated Damages amounting to Rs. 26,94,59,496/- and Rs. 73,00,00,000/- respectively.*

*The learned Commissioner of Income Tax (Appeals) ought to have appreciated impugned disallowances on account of Capital Grants & Subsidies and Consumers Contribution were a subject matter of long drawn discussion and debate. This apart the disallowances on account of Liquidated Damages were deleted by the Tribunal vide Order dated 31-10-2023.*

*The learned Commissioner of Income Tax (Appeals) further erred in law and on facts has totally ignored the fact that on exactly identical facts the penalty levied on account of capital grant & subsidies etc., for the immediately preceding year in the appellant’s own case has been fully deleted.*

2. *The appellant craves leave to add to, alter, delete or modify the above ground of appeal either before or at the time of hearing of this appeal.”*

6. At the outset, both the parties fairly submitted that the issue involved in the quantum appeal pertaining to liquidated damages stands adjudicated in

favour of the assessee. Hence, we hold that no penalty is leviable on this issue.

7. With regard to the issue of Capital Grants, the matter has been set-aside to the Assessing Officer is subjected to the provision of Section 275(1A) of the Act. Hence, the penalty order passed in this is also being set-aside to the Assessing Officer.

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

9. In the combined result, both the appeals filed by the assessee are allowed for statistical purposes.

**The order is pronounced in the open Court on 23.10.2024**

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 23/10/2024

TANMAY, Sr. PS

**TRUE COPY**

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

**Sd/-**  
**(DR. BRR KUMAR)**  
**ACCOUNTANT MEMBER**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad