

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri B.R. Baskaran (AM)

I.T.A. No. 3720/Mum/2016
(Assessment Year 2012-13)

M/s. Sahayog Microfinance Ltd. E-7/88, 1ala Lajpat Rai Society Arera Colony 8/83 Bhopal-462016 Madhya Pradesh (Appellant)	Vs.	ACIT 8(1)(2) Mumbai (Respondent)
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PAN No. AAHCS6051M

Assessee by	Shri Alok Saksena
Department by	Shri Rakesh Ranjan
Date of Hearing	7.6.2017
Date of Pronouncement	7.6.2017

ORDER

The appeal filed by the assessee is directed against the order passed by the learned CIT(A), Valsad and it relates to A.Y. 2012-13.

2. The assessee is contesting disallowance of provident fund payments by invoking provisions of section 43B of the Act.

3. I heard the parties and perused the record. The assessee is non-banking finance company. The Assessing Officer noticed that the employees contribution to provident fund amounting to ₹ 3,63,887/- was paid by the assessee after the due date prescribed under the Provident Fund Act and accordingly he disallowed the same by invoking provisions of section 43B of the Act. The learned CIT(A) confirmed the same and hence the assessee has filed this appeal before us.

4. Learned AR submitted that the Assessing Officer has erroneously taken the amount of employees contribution of ₹ 3,63,887/-. He submitted that the employees contribution was ₹ 1,88,193/- and remaining amount of ₹

1,75,694/- was employers contribution. He submitted that the assessee has paid both amounts before the due date of filing the return of income and hence they are allowable as deduction as per the decision rendered by Hon'ble Bombay High Court in the case of Ghatge Patil Transports Ltd. (368 ITR 749).

5. I heard learned Departmental Representative and perused the record. I noticed that the details of payment of provident fund amount of ₹ 3,63,887/- is not available on record. Further assessee contends that the employees contribution was actually ₹ 1,88,193/- and remaining amount represents employers contribution. Since the facts are not clear on this issue, I am of the view that this issue requires fresh examination at the end of the Assessing Officer in the light of the decision rendered by Hon'ble Bombay High Court in the case of Ghatge Patil Transports Ltd. (supra). Accordingly, I set aside the order passed by the learned CIT(A) on this issue and restore the same to the file of the Assessing Officer with the direction to examine this issue afresh by following the decision rendered by Hon'ble Bombay High Court in the case of Ghatge Patil Transports Ltd.(supra). After providing adequate opportunity of being heard to the assessee, the Assessing Officer may take appropriate decision in accordance with law.

6. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 7.6.2017.

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 7/6/2017

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

M/s. Sahayog Microfinance Ltd.

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai

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