

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए" अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1413/Ahd/2014

निर्धारण वर्ष/Assessment Year: 2010-11

The Assistant Commissioner of Income-tax, Circle 1(1), Baroda	Vs.	Gujarat State Fertilizers & Chemicals Ltd., PO: Fertilizer Nagar, Dist : Baroda - 391750 [PAN : AAACG 7996 C]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Revenue by :		Smt. Aparna Agarwal, CIT-DR
Assessee by :		Shri Sanjay R. Shah, AR

सुनवाई की तारीख/Date of Hearing : 25/10/2019

घोषणा की तारीख /Date of Pronouncement: 05/12/2019

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

The present appeal is directed at the instance of the Revenue against the order of the learned CIT(A)-I, Baroda dated 28.02.2014 passed for Assessment Year 2010-11. This appeal was decided by the Tribunal vide order dated 01.08.2018 along with appeal of the assessee i.e. ITA No. 1403/Ahd/2014. The Revenue filed a Miscellaneous Application bearing No.137/Ahd/2019 pleading therein that the ground No.2 raised by the Revenue remained undecided. Accordingly, the Miscellaneous Application of the Revenue was accepted by the Tribunal vide order dated 07.08.2019 and this appeal is restored *qua* Ground No. 2 for adjudication.

2. In Ground No.2, Revenue has pleaded that the learned CIT(A) has erred in deleting the disallowance of club membership fees.

3. The brief facts of the case are that the Assessing Officer has disallowed contribution of Rs.3,00,000/- towards club membership. While deleting the disallowance, CIT(A) has observed as under:-

“5.1 Again the relevant part of submission (i.e. synopsis of submission) of the appellant as filed during the course of appellate proceeding is also reproduced hereunder for reference:

<i>Disallowance of contribution of Rs.3,00,000</i>	<i>Page 16 / Para 9.0</i>	<ul style="list-style-type: none">▪ <i>Submission dated 24/01/2013 before the AO & Annexure Y thereof.</i>▪ <i>Appellant had made incurred expenditure of Rs. 3,00,000 being contribution to Gandhinagar Gymkhana as corporate membership fees.</i>
		<ul style="list-style-type: none">▪ <i>The aforesaid corporate membership has been bought by the appellant for its senior employees and accordingly, is incurred wholly and exclusively for the purpose of business of the appellant.</i>▪ <i>Since, the aforesaid expenditure was incurred wholly and exclusively for the purposes of business and accordingly, is allowable as business expenditure under section 37 of the Act.</i>▪ <i>Reliance is placed on following judgments:</i><ul style="list-style-type: none">a. <i>CIT v. Infosys Technologies Ltd. (2012) 349 ITR 610 (Kar.)</i>b. <i>CIT v. Infosys Technologies Ltd. (2012) 349 ITR 606 (Kar.)</i>c. <i>DCIT v. Banc. Of America Securities (India) (P.) Ltd. (2011) 128 ITO 386 (Mum. ITAT)</i>

5.2 With regard to disallowance of above membership fees of Rs.3,00,000/-, the submission of the appellant is found to be tenable. In my opinion expenses related to contribution to the club as corporate membership fees are of revenue nature. The case laws relied upon by the appellant in its above submission has bearing on the case of the appellant. In view of this the addition of Rs.3,00,000/- as made by the AO is hereby deleted. Thus the ground of appeal no. 6 of the appellant is allowed.”

4. At the very outset, learned Counsel for the assessee submitted that this issue is covered by the judgment of Hon'ble Karnataka High Court in

the case of CIT Vs. Infosys Technologies Ltd, reported in (2012) 349 ITR 610 (Kar.). He placed on record copy of this judgment. He also put reliance upon the judgment of Hon'ble Punjab and Haryana High Court in the case of CIT, Patiala Vs. Groz Beckert Asia Ltd. This decision is reported in (2013) 31 taxmann.com 155 (P&H). He placed on record copy of this decision also. He also relied upon the judgment of Hon'ble Gujarat High Court in the case of Gujarat State Export Corpn. Ltd. vs. CIT, reported in (1994) 204 ITR 649 (Guj.).

5. The unanimous opinion of all the High Courts in the above judgments as well as the judgments referred before the learned CIT(A) in the findings extracted supra is that the expenditure incurred for obtaining club membership in the shape of entrance fee is an allowable expenditure. Therefore, we are of the view that learned CIT(A) has not committed any error in deleting the disallowance. We do not find any merit in this ground of appeal; accordingly, it is rejected.

Order pronounced in the Court on 5th December 2019 at Ahmedabad.

Sd/-

Sd/-

(AMARJIT SINGH)
ACCOUNTANT MEMBER
Ahmedabad; Dated 05/12/2019

(RAJPAL YADAV)
JUDICIAL MEMBER

Dy. T. & S. P.S.

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.

TRUE COPY

आदेशानुसार/ BY ORDER,

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

