



% 07.07.2011

Present: Mr. Abhishek Maratha, Sr. Standing Counsel for the Income Tax Department/ appellant.

+ ITA No.812/2011

*

The additions made by the Assessing Officer which were to be questioned are that the Assessee had claimed ₹ 2,74,415/- as "contribution to Provident and other funds" to Sahara India Employees Contributory Provident Fund Trust which was disallowed on the ground that the present assessee was a different entity from M/s Sahara India and the Trust was recognized under Section 2(38) of the Income Tax Act. The Assessee had also claimed prior period of expenditure of a sum of ₹29,734/- which was disallowed on the ground that the Assessee was falling under Merchandize System of Assessing. The Assessee had also claimed deduction of Rs.4808360, comprising of ₹43,00,000/- lac as license fee paid to Airport Authority of India and ₹5,08,360/- as bank guarantee commission. This was disallowed on the ground that no evidence showing the said payment to Airport Authority of India was produced. In Appeal, the CIT (A) decided all the three issues in favour of the Assessee.

Insofar as the first deduction claimed by the Assessee is concerned, the CIT(A) observed that the provident fund contribution was recognized under Section 2(38) of the Act and there was no reason



2

for Assessing Officer to make disallowance. It was also found, as a fact that the employees who were working for the Assessing Company were all deducted from M/s Sahara India and because of this reason, the provident fund contribution was given to the said trust.

It is clear from the above that in fact the provident fund contribution as made by the Assessee pertains to the employees who were the members of the trust which trust was duly recognized under Section 2(38) of the Act.

Insofar as payments to Airport Authority of India is concerned, not only the Assessee produced the license agreement entered into between the Assessee and the Airport Authority of India as per which the license fee payable was ₹8.6 lac per month, the Assessee also produced five receipts of the payment towards such license fee. Since, all these findings are upheld by the Tribunal in Appeal, we do not find any question of law much less substantial question of law.

Insofar as third deduction is concerned, it is clear from the above that the Assessee has been able to prove that the payment of ₹ 8.06 lac was to be made towards license fee to M/s Airport Authority of India and by producing the receipts thereof, it has also satisfactorily proved the actual payments made. It is a finding of fact and, therefore, no interference is called for. Insofar as other two issues are concerned, the amount involved is marginal and we do not see any reason to



3

interfere leaving the question of law open which pertaining to first issue.

The appeal is dismissed.

A handwritten signature in black ink, appearing to read 'A.K. Sikri', written over a horizontal line.

A.K. SIKRI, J.

A handwritten signature in black ink, appearing to read 'M.L. Mehta', written in a cursive style.

M.L. MEHTA, J.

JULY 07, 2011
rd