IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/TAX APPEAL NO. 277 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

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Approved for Reporting	Yes	No
		No

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PRINCIPAL COMMISSIONER OF INCOME TAX 3,AHMEDABAD
Versus
M/S GUJARAT STATE ROAD DEVELOPEMENT CORPORATION LIMITED

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Appearance:
MS MAITHILI D MEHTA(3206) for the Appellant(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 12/08/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned Senior Standing Counsel Ms.Maithili D. Mehta for the appellant-Revenue.

2. By this Appeal under Section 260A of the Income Tax Act, 1961 (for short ‘the Act’),

the appellant-Revenue has proposed the following substantial question of law, arising out of the order dated 31st October, 2023 passed by the Income Tax Appellate Tribunal, Ahmedabad 'B' Bench (for short 'the Tribunal') in ITA No.2798/Ahd/2014 & C.O.No.319/Ahd/2014 for Assessment Year 2011-12:

> "*(i) Whether on the facts and circumstances of the case, learned Tribunal has erred in law and on facts confirming the decision of Ld. CIT(A) to delete the additions made by the A.O. of Rs.6,48,02,554/- on account expenses of projects for which no income is offered?"*

3. The brief facts of the case are as under:

3.1. The assessee is a Company engaged in building infrastructure projects namely roads. The assessee-Company received grants from the Government for carrying out infrastructure road projects.

3.2. The assessee filed the Return of Income for the Assessment Year 2011-12 declaring total income of Rs.2,54,79,210/- and the case of the assessee was selected for scrutiny under CASS and Assessment Order under Section 143(3) of the Act was passed on 21st January, 2014 determining total income at Rs.78,41,21,174/- after making additions on account of unutilised grant treated as income amounting to Rs.56,22,59,000/-, unrecorded receipt of Rs.1,08,22,957/- and expenses of project, for which no income was offered, amounting to Rs.6,48,02,554/- and interest on deposits with GSFS of Rs.12,07,57,449/-.

3.3. Being aggrieved, the assessee preferred an Appeal before the CIT (Appeals), who vide order dated 14th July, 2014, allowed the Appeal of the assessee deleting the additions made by the Assessing Officer.

3.4. Being aggrieved by the order of the CIT (Appeals), an Appeal was preferred before the Tribunal by the Revenue being ITA No.2798 of 2014 and assessee also preferred Cross-Objection being C.O.No.319 of 2014. The Tribunal, following its earlier decision for Assessment Year 2010-11, upheld the order passed by the CIT (Appeals) deleting the addition made on account of unspent grant of Rs.56,22,59,000/-. The Tribunal also dismissed the Appeal filed by the Revenue and upheld the order of the CIT (Appeals) for deletion of the addition of unrecorded receipts amounting to Rs.1,08,22,957/-, in absence of any infirmity in the order of the CIT (Appeals) brought to the attention of the Tribunal by the Departmental representative.

3.5. So far as ground No.3 of the Revenue for deletion of the addition on expenses claimed for which no income was offered amounting to Rs.6,48,02,554/-, is concerned, the Tribunal followed the decision in case of the assessee rendered in ITA No.136/Ahd/2014 for Assessment Year 2010-11, as the disallowance made by the Assessing Officer was identical with that of the earlier year, which reads as under:

"*...21. We have heard both the parties and have carefully gone through the authorities below. The issue before us relates to the allowance of claim of expenses with respect to certain projects against which no income was allegedly booked by the assessee. The amount concerned being Rs. 2,10,53,596- And the project wise details are reproduced above.*

22. Firstly, we are in agreement with the ld.counsel of the assessee that for the allowance of claim of expenditure, the only requirement to be fulfilled as per the law is that it should have been incurred wholly and exclusively for the purpose of business of the assessee, i.e. it should satisfy the test of commercial *expediency. Section 37(1) of the Act clearly stipulates the same as the only condition to be fulfilled for claiming expenses while computing the income from business. There is no dispute vis-a-vis the same nor did the ld.DR state anything to contradict this position of the law, when pointed out by the Id. counsel for the assessee before us.*

23. In the facts and circumstances of the case, it is not the case of the Revenue that these expenses have not been incurred wholly and exclusively for the purpose of business of the assessee. In fact, admittedly these expenses relate to road and bridge construction which is the main object for which the assessee company has *been incorporated and even as per the AO/CIT(A) these expenses relate to projects undertaken by the assessee. In the light of this fact alone, there is no case for disallowing the impugned expenses when admittedly they have been incurred wholly and exclusively for the purpose of carrying out the business of the assessee. The case of the Revenue being that no income has been booked against the same, then the logical course of action was to determine whether the assessee failed to book income against the same or has not treated a particular receipt as income The entire effort of the Revenue ought to have been to bring the concerned income to tax. In the absence of the same, the Revenue could not have been gone on to disallow* *the expenses incurred by the assessee, which otherwise admittedly were incurred wholly and exclusively for the purpose of business. For this reason alone, we agree with the ld.counsel for the assessee that the disallowance made by the 40 was rightly deleted by the ld. CIT (A).*

24. Even otherwise on facts, we find that the Id. CIT(A) has noted, that with respect to the Rajkot-Jamnagar project, the assessee had booked income also. This fact has not been controverted by the Revenue before us. Therefore, the very basis with the A0 for disallowing the expenses incurred in relation to Rajkot-Jamnagar project does not survive, and the Id. CIT (A), therefore, we hold, has *rightly deleted the disallowance of expenses relating to this project.*

25. Vis-a-vis the railway over-bridge(ROB) projects, the ld.CIT(A), we hold, rightly appreciated the contentions of the assessee that this work was carried out by the assessee for the benefit of the public at large without any assistance from the Government by way of grants. The Revenue has not controverted this contention of the assessee that it carried out these projects without any assistance by way of grants from the Government or without any remuneration for the same. And as has been held by us above, the absence of any income against any expenditure incurred, would not invalidate the claim of *expenditure, which otherwise has been undisputedly incurred wholly and exclusively for the purpose of business of the assessee.*

26. In view of the same, we see no reason to interfere in the order of the ld. CIT(A) deleting the disallowance of expenses incurred on projects amounting to Rs.2,10,53,596/-."

4. Thus, the Tribunal has followed its earlier year's decision, upholding the deletion of the disallowance of Rs.6,48,02,554/- on expenses for which no income was offered and we do not find any infirmity in the order of the Tribunal, confirming the decision of disallowance

made by the Assessing Officer, as it is not in dispute that the expenses related to the projects undertaken by the assessee, were incurred wholly and exclusively for the purpose of carrying out the business of the assessee and merely because no income has been booked against the same, it would not result into disallowance of such expenses, when the Revenue has failed to prove that the assessee booked income against the same or assessee has not treated a particular receipt as income.

5. Moreover, in the facts of the case, the assessee has booked the income for Rajkot-Jamnagr project, which has not been

controverted by the Assessing Officer and hence, the very basis with Assessing Officer for disallowance of expenses incurred in relation to the project, would not survive as the project work was carried out by the assessee for the benefit of the public at large, without any assistance from the Government by way of grant.

6. In view of such concurrent findings of fact recorded by the Tribunal in the earlier year, which has achieved finality, as the same is not challenged by the Revenue by way of an Appeal, we do not find any legal infirmity in the impugned order of the Tribunal, so as to give rise to the

substantial question of law.

7. The Appeal is accordingly dismissed.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

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