

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

**BEFORE: SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1682/Ahd/2025

(निर्धारण वर्ष / Assessment Year : 2021-22)

True Sparrow Systems Pvt. Ltd. Kothi Pole Raopura, Vadodara, Gujarat – 390001	बनाम/ Vs.	Deputy Commissioner of Income Tax Circle 2(1)(1), Vadodara
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCT7101J		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Kushal Fofaria, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Smt. Ananya Kulshresth, Sr.DR

Date of Hearing	13/01/2026
Date of Pronouncement	19/01/2026

(आदेश)/ORDER

PER ANNAPURNA GUPTA, AM:

The present appeal has been filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi (hereinafter referred to as “CIT(A)”) dated 26.06.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2021-22.

2. The effective grounds of appeal raised by the assessee are as under:

- “1. The Ld. CIT(A) has erred in law and on facts of the case in upholding disallowance made by Ld. AO u/s 43B of the Act pertaining to deduction claimed of gratuity actually paid of Rs. 11,84,163 to two employees on their discontinuation.*
- 2. The Ld. CIT(A) and Ld. AO have erred in misinterpreting the effect of combined accounting entry passed for the final settlement of the two discontinuing employees in the ledger of Provision of Gratuity.*
- 3. The Ld. CIT(A) and Ld. AO have passed the order without properly appreciating the facts and they further erred in grossly ignoring various submissions, explanations and information submitted by the appellant from time to time which ought to have been considered before passing the impugned order. Their action is in clear breach of law and Principles of Natural Justice and therefore deserves to be quashed.*

3. The solitary issue in the present appeal relates to disallowance of Rs.11,84,163/- claimed by the assessee as gratuity paid during the year in terms of the provisions of Section 43B of the Act. The disallowance was made and confirmed by the Ld. CIT(A) on the ground and for the reason that the assessee had not provided any evidence that the payments were made on account of gratuity. The relevant findings of the Ld. CIT(A) are contained at para 6 to 6.3 of his order as under:

“6. Decision:-

6.1 The submission made by the appellant along with the facts mentioned in the assessment order have been considered. The AO has held in the assessment order that payment of Rs. 11,84,163/- claimed to be made by the appellant was not related to payment of gratuity on retirement of its employees and the said amount is not covered u/s

43B of IT Act, 1961 being provident fund Employee contribution and thus the AO made the above disallowance.

6.2 The appellant has submitted that the gratuity account has been correctly debited by crediting the salary payable account of the respective employee by the respective amounts of Rs.6,39, 4901- and Rs. 5,44,673/-. The appellant has also submitted that it has neither debited incorrect account nor misrepresented any accounting entry or facts. The appellant has further submitted that the above payment was also allowed u/s 43B.

6.3 The appellant has not provided any evidence either during the assessment proceeding nor during the appellate proceeding that the above payments were made on account of gratuity payments. As per the submission of the appellant itself the above payments were made on account of salary and not provident fund. Besides, it has been correctly held by the AO that the above payments, not being in the nature of provision fund payment, are not covered u/s 43B.”

4. Before us, Ld. Counsel for the assessee contended that the evidence filed by the assessee were not appreciated and understood by the lower authorities in the correct perspective. He contended that the assessee had explained that every year a provision was created by the assessee for gratuity payment of its employees based on a scientific method and actuarial valuation thereof. The said provision, he stated, was debited to the P&L account but in the computation of income the provision was added back to the income of the assessee and only gratuity actually paid during the year was claimed as deduction in terms of the provisions of Section 43B of the Act. He drew our attention to the provisions of Section 43B(b) of the Act in this regard as under:

“43B. Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—

(a)

(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, or

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.....
shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him :”

5. That in the impugned year also the assessee had claimed deduction only on account of gratuity actually paid and had filed documents evidencing the said fact also. Our attention was drawn evidences so filed as under:

i. The audited balance sheet of the assessee containing notes to the financial statements for the impugned year mentioning the fact of the assessee providing for post-retirement benefits in the form of gratuity determined on the basis of an actuarial valuation and the policy of booking of leave encashment on payment basis in the books of accounts. Our attention was drawn to Paper Book page No.38 being notes to the financial statement for the year ended 31st March, 2021 Point (G) as under:

“g) Retirement and Other Employee Benefits

Short term benefit plans

Account for the year in which the related services are rendered. Short term employee benefits are recognized as an expense at undiscounted amount in the Statement of Profit & Loss

Post employment employee benefits

Defined Contribution Plan

Company's contributions to the Provident Fund is charged to the Statement of Profit and Loss of the year when the contributions to the respective funds are due.

Defined Benefit Plan

The Company also provides for post-retirement benefits in the form of gratuity and the liability towards such benefit is determined on the basis of an actuarial valuation, as at the balance sheet date, made by independent actuaries using the projected unit cost method. Actuarial gain/losses in respect of defined benefit plans are recognised in the Statement of Profit and Loss in the year in which they arise. The classification of the company's net obligation into current and non-current is as per the actuarial valuation report.

The Company adopts the policy for booking of Leave encashment on payment basis in the books of accounts."

ii. Thereafter, our attention was drawn to page no.41 of the paper book being note no.5 of the audited financial statements reflecting long term provisions for employee benefits i.e. gratuity, amounting to Rs.87,67,189/- as at the end of the year. Attention was also drawn to Note no.18 being employee benefit expenses debited to the P&L account reflecting the provision created for gratuity during the impugned year amounting to Rs.21,27,379/-. Thereafter, our attention was drawn to the disclosures in the financial statement for the impugned year in accordance with revised AS-15 on employee benefits reflecting actual benefit reflecting actual benefit paid on account of gratuity during the year being Rs.11,84,163/- at page no.45 of paper book as under:

"22. Disclosure in accordance with Revised AS 15 on Employee Benefits:

The Company operates a west benefit gratuity plan for its employees. Under the gratuity plan, every employee who has

completed five years of service gets a gratuity on departure at 15 days of last drawn salary for each completed year of service or part thereof in excess of six months. Every employee, who has completed ten years of service, is entitled to an additional 7 days of basic salary for each completed year of service or part thereof in excess of six months. Every Employee, who has completed ten years of service, is entitled to an additional 7 days of basic salary for or each completed year of service or part thereof in excess of six months. The Company has not funded liability as on 31st March 2021.

	Year Ended March 31, 2021	Year Ended March 31, 2020
i) Change in defined obligation		
Opening defined benefit obligation	86,50,129	70,05,856
Interest cost	5,47,947	5,12,524
Past service cost		
Current service cost	17,96,868	18,68,779
(Benefits paid)	(11,84,163)	(8,70,075)
Actuarial (gain)/loss	(2,17,436)	1,33,045
Closing defined benefit obligation	95,93,345	86,50,129
ii) Change in plan assets		
Opening fair value of plan assets	61,35,781	70,05,856
Contribution by employer		
(Benefits paid)	(11,84,163)	(8,70,075)
Actuarial (gain)/loss		
Closing fair value of plan assets	49,51,618	61,35,781
iii) Expenses to be recognized in Profit and Loss account		
Current service cost	17,96,868	18,68,779
Interest cost on benefit obligation	5,47,947	5,12,524
Past service cost		
Expected return on plan assets		
Actuarial (gain)/loss	(2,17,436)	1,33,045
Net cost	21,27,379	25,14,348
iv) Assumptions used:		
Discount rate	6.40%	6.80%
Salary escalation	10.00%	9.00%

iii. Our attention was drawn to page no.13 of the paper book containing the computation of income for the impugned year reflecting the fact of the amount debited to the P&L account of Rs.21,27,379/- on account of gratuity disallowed u/s.43B of the Act and the amount of Rs.11,84,163/- paid on account of gratuity claimed as deduction.

iv. Our attention was thereafter drawn to the ledger account of the salary payable to Akshay Raje and Pankaj Keswani reflecting amounts paid to them on account of gratuity amounting to Rs.6,39,490/- and Rs.5,44,673/- during the impugned year, the relevant ledgers being placed at page nos. 6 & 7. Our attention was also drawn to ledger account for the provision of gratuity reflecting payments made to Akshay Raje and Pankaj Keswani on account of gratuity amounting to Rs.6,39,490/- and Rs.5,44,673/- during the impugned year in the paper book page no.8, copies of salary vouchers of Akshay Raje and Pankaj Keswani was also placed at paper book page nos. 9 & 10 reflecting the fact payment made to them on account of gratuity as noted above.

6. Ld.Counsel for the assessee therefore, contended that the assessee had sufficiently demonstrated the fact of having made payment of gratuity during the impugned year to two employees and, therefore, was entitled to claim deduction of the said amount of Rs.11,84,854/- in terms of provision of Section 43B of the Act.

7. Ld. DR was unable to controvert any of the factual contention made by the Ld. Counsel for the assessee as above. Though, he vehemently supported the orders of the authorities below.

8. Having heard the rival contentions of both the parties, we find no merit in the order passed by the Ld. CIT(A). Undeniably,

Ld. CIT(A) had confirmed the disallowance of claim of gratuity paid amounting to Rs.11,84,163/- u/s 43B of the Act for lack of evidence of payment, but the Ld. Counsel for the assessee has suitably demonstrated before us that sufficient evidences were filed to the Ld. CIT(A) demonstrating the said fact.

9. As noted above, the assessee had demonstrated from its audited balance sheet the accounting method followed by it of creating provision for gratuity as per actuarial valuation and debiting the gratuity paid in the said account. The fact of having debited provision for gratuity created during the year in the audited Profit & Loss account of the assessee was also clearly demonstrated from the financial statements. The Notes to the audited financial statements were also shown to clearly disclose the quantum of provision for gratuity created during the year and the amount of gratuity actually paid during the year. The assessee further demonstrated the fact of payment of gratuity during the year amounting to Rs.11,84,163/- by filing copy of the provision for gratuity account reflecting the fact of payment of gratuity to two employees. Copies of ledger accounts of salary paid to these two employees was also filed reflecting the fact of gratuity paid to them as noted in the provisions of gratuity account. Even the copies of their salary slips were filed confirming the aforesaid fact.

10. The assessee, we hold therefore, has demonstrated the fact of payment of gratuity amounting to Rs.11,84,163/- with cogent and credible evidence. We hold the Ld. CIT(A) to have wrongly recorded the fact of assessee having not furnished any evidence in support of its claim of gratuity paid during the year u/s.43B of the Act. Therefore, we do not find any merit in the order passed by the Ld.CIT(A) denying the assessee's claim of gratuity paid u/s.43B of the Act amounting to Rs.11,84,163/- for want of evidence of having paid the same. The AO is directed to be delete the disallowance of the same. Grounds of appeal No.1-3 raised by the assessee are allowed.

11. In the result, appeal filed by the assessee is allowed.

This Order pronounced on	19/01/2026
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Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad; Dated 19/01/2026

S. K. SINHA

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.

आदेशानुसार/ BY ORDER,

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