

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "G" BENCH NEW DELHI)**

BEFORE SHRI G.D. AGRAWAL, PRESIDENT

&

SHRI AMIT SHUKLA, JUDICIAL MEMBER

In ITA No. 5180/Del/2012

Assessment Year: 2007-08

DCIT Circle 10(1), New Delhi	Vs.	M/S Deewan Sugar Ltd., 1st Floor, Suraj Julena, New Friends Colony, New Delhi
(Applicant)		(Respondent)
(PAN: AAACD3465H)		

Revenue by: Shri S. S. Rana, CIT DR

Assessee by: None

Date of hearing	22/08/2017
Date of pronouncement	28/08/2017

ORDER

PER AMIT SHUKLA, JUDICIAL MEMBER:

The aforesaid appeal has been filed by the Revenue against the impugned order dated 13.07.2015, passed by the Ld. CIT (Appeals)-V, New Delhi for the quantum of assessment passed u/s 143(3) for the A.Y. 2007-08, wherein, the revenue has raised following grounds of appeals:

"1. Whether the CIT(A) under the facts and circumstances of the case and in law was justified in deleting the disallowance of Rs.73,51,878/- made by the Assessing Officer on account of sugarcane development expenses.

2. *The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”*

2. The brief facts qua the issue of disallowance on account of sugar cane development expenses are that the assessee company is engaged in the business of manufacturing of white crystal sugar. The Assessing Officer noted that the assessee has credited an amount of Rs. 3,33,752/- on account of agricultural income and has debited an amount of Rs. 73,51,878 on account of ‘cane development expenses’. He observed that in the assessment year 2006-07, the Assessing Officer has held that the claim of expenses against the agricultural income cannot be allowed and if total expenses is to be disallowed it would result into ‘nil’ agricultural income. However, instead of reducing the agriculture income at ‘nil’ he disallowed the entire expenses and added the same to the income of the assessee. Accordingly, he made an addition of Rs. 73,51,878/-.

3. Before the Learned CIT (Appeals), the assessee clarified that in the A.Y. 2006-07 the Assessing Officer had disallowed the claim of exemption of agricultural income and also disallowed the entire cane development expenses but no addition was made on this account to the income of the assessee. Explaining the entire facts before the Learned CIT (Appeals), the assessee submitted that the assessee was in possession of total land of 39.530 hectares of land, out of which 29.957 hectares was for use of agricultural activities which was for sugar cane production. The sugar cane produced from own agricultural land was used for its own crushing purposes, but ‘cane development expenses’ have been incurred on the land of other farmers of the command area which was outside the premises of the

assessee and it has no correlation or nothing to do with the agricultural income derived by the assessee from its own agricultural land. It was clarified that the Assessing Officer had confused himself and has assumed that cane produced and crushed by the assessee was the result of cane development activities. Regarding the 'command area' it was submitted that the State Government of Uttar Pradesh makes allotment of command area of every sugar industry which generally consists of villages located in the vicinity of 10 to 15 KMs of the sugar industry. As per the instruction of State Government, every sugar industry has to carry out cane development activities in the command area allotted to a sugar industry/ company by the State Government for procurement of the sugar cane produced by the farmers on their individual land or on the agricultural land owned by other farmers. In order to support sugar industry even the Central Government has created sugar development fund and recognizes the need for cane development activities provided by the sugar industry to the farmers. Apart from that it was submitted that, the cane development expenses have always been allowed by the Assessing Officer in the earlier years under scrutiny assessments, the details of such assessments passed u/s 143(3) in the earlier years were given as under:-

A.Y.	Sales (in Crores)	Cane Development Expenses (Rs.)	% age
2001-02	5.87/-	9,93,612/-	1.69
2002-03	41.14/-	2,30,415/-	0.06
2003-04	51.87/-	72,88,071/-	1.40
2004-05	85.13/-	49,10,303/-	0.58
2005-06	76.07/-	48,21,872/-	0.63
2006-07	100.36/-	72,89,737/-	0.73

4. The Learned CIT (Appeals) after considering the entire gamut of facts and material allowed the said claim of expenses on the ground that there was a wrong appreciation of facts by the Assessing Officer and he himself perused the entire material on record and noted that expenses have been claimed in the profit and loss account in the 'Schedule 20' which is relating to main business of the assessee and in none of the years cane development expenses have been ever disallowed. He also took note of **CBDT circular no. 578 dated 15.2.1990**, wherein CBDT has held that any expenditure incurred by sugar factory for cane development programmes would be eligible for deduction in computing the taxable profits. Accordingly, he allowed the claim of the assessee.

5. Since, none appeared on behalf of the assessee despite several notices; therefore, we are proceeding to decide the appeal on merits.

6. After considering the submissions of the Ld. DR and the findings given in the impugned order, we find that the Assessing Officer in a very summarily manner has disallowed the expenses on the ground that it is relatable to agricultural income shown by the assessee at Rs. 3,33,752/-. On the other hand the facts which has been discussed by the Learned CIT(Appeals), it is seen that the 'cane development expenses' has nothing to do with the agricultural income shown by the assessee from its agricultural land, *albeit* it is an expenditure incurred for the development of the farmers of the command area allotted to the assessee company by the State Government for procurement of the sugar cane produced by the farmers on their own land which are in the vicinity of 10 to 15 kilo meters of radius of the assessee's factory. These expenses include

payments on account of seeds, fertilizer, transport subsidy to farmers, seed survey expenses, salary to staff engaged on the said cane development activities, irrigational equipments, computers and software with a view to educate farmers etc. These expenses have to be incurred by the assessee as per the direction or mandate of the State Government; and have been debited as cane development expenses in the profit and loss account which is part of the assessee's main activity of manufacturing of sugar crystals. The cane development expenses debited to the profit & loss account and the agricultural income are completely unrelated and therefore, to say that it is directly related to assessee's agricultural income from its own land is sans any material. Apart from that as noted above, the similar claim of expenses have always been allowed by the Assessing Officer in the scrutiny assessments right from the assessment year 2001-02 to 2006-07. The Learned CIT (Appeals) has referred to CBDT's circular No. 578 dated 15.2.1990, wherein CBDT has clarified and upheld that the expenditure incurred by the sugar factory on cane development programmes is eligible for deduction u/s 37(1). Accordingly, we do not find any infirmity in the order of the Learned CIT (Appeals) while deleting the said disallowance and the same is affirmed. Thus, grounds raised by the revenue are dismissed.

7. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 28.08.2017.

Sd/-
(G.D. AGRAWAL)
(PRESIDENT)

Sd/-
(AMIT SHUKLA)
(JUDICIAL MEMBER)

Dated: 28.08.2017

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Copy forwarded to:

- 1) Appellant
- 2) Respondent
- 3) CIT
- 4) CIT (Appeals)
- 5) DR: ITAT

ASSISTANT REGISTRAR

	Date
Draft dictated on	23.08.2017
Draft placed before author	24.08.2017
Draft proposed & placed before the second member	
Draft discussed/approved by Second Member.	
Approved Draft comes to the Sr.PS/PS	28. 8.2017
Kept for pronouncement on	28.8.2017
File sent to the Bench Clerk	28.8.2017
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	

Date of dispatch of Order.	
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