

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “A” BENCH AHMEDABAD

BEFORE, SHRI S. S. GODARA, JUDICIAL MEMBER
AND SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No. 2645/Ahd/2014
(Assessment Year: 2010-11)

ITO, Ward-1(4), Ahmedabad

Appellant

Vs.

M/s. Deepkiran Foods Pvt. Ltd.,
101, Astron Tech Park, Opp. Fun
Republic, Satellite, Ahmedabad-51

Respondent

PAN: AABCD2018R

राजस्व की ओर से/By Revenue : Shri Prasoon Kabra, Sr. D.R.
आवेदक की ओर से/By Assessee : Shri A. C. Shah, A.R.
सुनवाई की तारीख/Date of Hearing : 06.09.2017
घोषणा की तारीख/Date of
Pronouncement : 27.09.2017

ORDER

PER S. S. GODARA, JUDICIAL MEMBER

This Revenue's appeal for assessment year 2010-11 arises against the CIT(A)-VI, Ahmedabad's order dated 30.07.2014, in case no. CIT(A)-VI/ACIT(OSD)-R.1/266/13-14, in proceedings u/s. 143(3) r.w.s. 144C of the Income Tax Act, 1961; in short "the Act".

Heard both sides. Case file perused.

2. The Revenue raises two substantive grounds in the instant appeal. The first one seeks to revive excess stock addition of Rs.65,72,677/- in respect of finished/semi finished goods as per stock statement given to bank authorities vis-à-vis the corresponding figures shown in the books of accounts. The Assessing Officer made the impugned addition inter alia noticing that assessee's bank stock was of Rs.3,22,49,023/- as against its books stock of Rs.3,59,88,888/-. He therefore arrived at difference in finished goods of Rs.64,70,021/- and Rs.93,656/- in respect of semi finished goods to make impugned addition of alleged assessee's failure in filing cogent evidence justifying the above difference.

3. The CIT(A) reverses assessment findings making the impugned addition mainly after placing reliance upon his order dated 22.07.2013 in preceding assessment year on the very issue. He further quotes hon'bel jurisdictional high court's decision in CIT vs. Arrow Exim P. Ltd. (2010) 230 CTR 293 (Guj) that such an stock statement submitted to the bank without being supported by physical verification of books stock does not form a valid ground to invoke the addition in question. This leaves the Revenue aggrieved.

4. Heard both parties. Case file perused. It is no more in dispute that the CIT(A) had followed his preceding assessment years findings in deleting the impugned addition arising from alleged difference in stock statement given to the bank than in assessee's books accounts. Learned counsel representing assessee at this stage files a copy of co-ordinate bench decision in IT No. 2381/Ahd.2013 decided on 14.12.2016 upholding CIT(A)'s identical action deleting the impugned addition in preceding assessment year 2009-10. The Revenue fails to rebut this crucial development. We therefore affirm CIT(A)'s

findings in the impugned assessment year as well by adopting judicial consistency. The Revenue fails in its former substantive ground.

5. The Revenue's latter substantive ground seek to restore alleged excess depreciation disallowance of Rs.11,98,646/- by quoting Appendix-1 of IT Rules prescribing depreciation allowable @10% in case of electrical fittings. The assessee had claimed depreciation @50% qua the electrical fittings. The Assessing Officer restricted the above claim to that @10% after holding that the electrical fittings stated to have been installed in office or factory building made no business to enhance the depreciation rate to 15%. All this resulted in the impugned depreciation disallowance.

6. We now advert to the CIT(A)'s findings under challenge. The assessee contended in course of lower appellate proceedings that it is installed the impugned electrical fittings in the machinery to be run with the help of electrical motors and heavy duty fittings, the relevant items formed plant and machinery block to assets having prescribed depreciation rate @ 15%. The CIT(A) accepts the same on the ground that the impugned electrical fittings become part of plant/machinery eligible for the above higher rate of depreciation.

7. We have heard the rival submissions. Relevant findings perused. Learned Departmental Representative strongly argues that the assessee's electrical items can in no way be termed as plant and machinery since forming a separate block of assets in appendix-1 in Income Tax Rules eligible for depreciation rate @ 10%. This argument fails to convince us. Hon'ble Jurisdictional high court's decision in CIT vs. Express Resorts & Hotels Ltd. (2015) 56 taxmann.com 171 (Guj) rejects Revenue's identical plea. Their lordships conclude that the such electrical installation and sanitary fittings are to be recorded as plant/machinery for the purpose of depreciation claim u/s.32 of

the Act. We therefore place reliance upon the said case law to uphold the CIT(A)'s findings under challenge. This latter substantive ground is also declined.

8. This Revenue's appeal is dismissed.

[Pronounced in the open Court on this the 27th day of September, 2017.]

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER
Ahmedabad: Dated 27/09/2017

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

True Copy

S.K.SINHA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।