

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : D : NEW DELHI  
BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No.1714/Del/2009  
Assessment Year : 2006-07

CO No.398/Del/2010  
(ITA No.4984/Del/2010)  
Assessment Year : 2007-08

Tikaula Sugar Mills Ltd.,  
25-B, Gher Khati (Old 118-B),  
New Mandi,  
Muzaffarnagar.

Vs.

DCIT,  
Circle-1,  
Muzaffarnagar.

PAN: AACCT5818B

ITA Nos.2027/Del/2009 & 4984/Del/2010  
Assessment Years : 2006-07 & 2007-08

DCIT,  
Circle-1,  
Muzaffarnagar.

Vs.

Tikaula Sugar Mills Ltd.,  
25-B, Gher Khati (Old  
118-B),  
New Mandi,  
Muzaffarnagar.

PAN: AACCT5815B

Assessee By : Shri Akhilesh Kumar, Advocate  
Deptt. By : Shri Amit Jain, Sr. DR

Date of Hearing : 12.12.2017  
Date of Pronouncement : 13.12.2017

ORDER

PER R.S. SYAL, VP:

Out of this batch of four appeals (including one cross objection), two cross appeals each relate to the assessment years 2006-07 & 2007-08. Since some of the issues raised in these appeals are common, we are, therefore, disposing them off by this consolidated order for the sake of convenience.

Assessment Year 2006-07

2. The first issue raised by the assessee in its appeal is against not allowing full deduction of Rs.2,48,27,490/- on account of incentive on sale of levy sugar in open market.

3. Briefly stated, the facts of the case are that the assessee reduced its income by Rs.2.48 crore, being, incentive on sale of levy sugar as free sugar. On being called upon to explain the

reasons for such a claim, it was stated that incentive was available to new sugar factories for ten years as per the Scheme of the Government of India to which the assessee was eligible. Such incentive was claimed to have been allowed for repayment of loans raised for erection of factories. Not convinced, the Assessing Officer added such amount of Rs.2.48 crore to the assessee's income. The Id. CIT(A), following his decision for the assessment year 2005-06, allowed relief of Rs.1.90 crore and confirmed the addition for the remaining amount of Rs.57.87 lac, against which the assessee has come up in appeal before the Tribunal.

4. We have heard the parties and perused the relevant material on record. It is observed that the Assessing Officer followed his decision taken for the assessment year 2005-06 in restricting the assessee's claim to this level. The lead order in the case of the assessee came to be passed by the Tribunal for the assessment year 2000-01, a copy of which has been placed at page 32

onwards of the paper book. Similar issue raised for such year was determined in the assessee's favour vide discussion made at page 35 of the paper book. The Tribunal in accepting such a claim for the assessment year 2005-06, has followed the lead order passed for the assessment year 2000-01. In view of the consistent view taken by the Tribunal on this issue, we set aside the impugned order to this extent and order for the deletion of the remaining addition sustained in the first appeal. This ground is allowed.

5. The second ground is against the confirmation of addition of Rs.1 lac on *ad hoc* basis. The facts apropos this ground are that the assessee claimed deduction for expenses amounting to Rs.27,29,249/-. The Assessing Officer observed that though the expenses were vouched, but, some of the expenses were claimed on the basis of self made vouchers. He, therefore, made a disallowance of Rs.5 lac on *ad hoc* basis. The Id. CIT(A), following his action for the preceding year, reduced the

disallowance to Rs.1 lac, against which the assessee has come up in appeal before the Tribunal.

6. We have heard the parties and perused the relevant material on record. It is observed, as an admitted position, that some of the expenses were made on the basis of self made vouchers. To this extent, the expenses cannot be considered as backed by the relevant evidence, requiring *pro tanto* addition. The ld. CIT(A) followed his decision for the preceding year and, accordingly, sustained the addition at Rs.1 lac out of total expenses of Rs.27.29 lac claimed by the assessee. The ld. AR admitted that the addition so made for the preceding year was accepted by the assessee and no further appeal was filed. In view of the foregoing discussion, we are satisfied that the sustenance of addition at Rs.1 lac is in order, which does not require any interference. This ground fails.

7. The only issue raised in the Revenue's appeal is against computation of book profits u/s 115JB of the Act by directing to

reduce a sum of Rs.15,61,78,204/- on account of the amount of excess depreciation due to change of method from straight line to written down value. Succinctly, the assessee claimed depreciation of Rs.15.61 crore pertaining to earlier years on account of changed method from straight line to written down value, effected in the year under consideration. The Assessing Officer did not allow the claim and added back the same for computing book profits under section 115JB of the Act. The Id. CIT(A), however, overturned the assessment order on this score.

8. We have heard the parties and perused the relevant material on record. The Id. AR has placed on record a copy of the judgment of the Hon'ble jurisdictional High Court in *CIT vs. Hindustan Pipe Udyog Ltd. (2013) 31 taxmann.com 351 (All)* in which deduction of excess depreciation due to change in method from straight line to written down value method has been approved u/s 115J of the Act. The Hon'ble Gujarat High Court in *DCIT vs. Gujarat Filaments Ltd. (2016) 66 taxmann.com 375*

(Guj) has approved the deduction of excess depreciation due to change of method in the computation u/s 115JB of the Act. No contrary decision has been brought to our notice by the Id. DR. Respectfully following the precedent, we approve the decision of the Id. CIT(A) on this issue. This ground fails.

9. In the result, the appeal of the assessee is partly allowed and that of the Revenue is dismissed.

Assessment year 2007-08

10. Ground No.1 of the Revenue's appeal is against the deletion of addition of Rs.1,84,83,960/- on account of incentive on sale of levy sugar as revenue receipt as against the capital receipt claimed by the assessee. This year, the Id. CIT(A) took a contrary view from the one taken in the preceding year and deleted the addition. Both the sides are *consensus ad idem* that the facts and circumstances of this ground are *mutatis mutandis* similar to those of ground No.1 of the assessee's appeal for the assessment year 2006-07. Following the view taken

hereinabove, we approve the action of the Id. CIT(A) in deleting the addition. This ground is not allowed.

11. Ground No.2 is against the deletion of addition of Rs.4,12,208/- made by the Assessing Officer on account of provision made for storage of molasses tank. Here again, both the sides are in agreement that the facts and circumstances of the ground are similar to those taken in appeal for the assessment year 2000-01. Relevant discussion has been made at para 9 of the Tribunal order for the assessment year 2000-01, in which such issue has been decided in the assessee's favour. Respectfully following the precedent, we uphold the impugned order on this score.

12. The last ground is against the deletion of disallowance of Rs.75,000/- on account of unverifiable expenses. The only issue taken by the assessee in its cross objection is against the confirmation of addition of Rs.75,000/-. The facts and circumstances of the disallowance of Rs.1,50,000/- made by the

Assessing Officer out of expenses on account of self made vouchers and its reduction by the Id. CIT(A) to Rs.75,000/- are similar to those of the preceding years. Following the view taken hereinabove, we uphold the disallowance at the level sustained by the Id. CIT(A). Thus, the ground of the Revenue and the Cross Objection of the assessee are not allowed.

13. In the result, the appeal of the Revenue and the Cross Objection of the assessee stand dismissed.

Order Pronounced in the open Court on 13.12.2017.

Sd/-

[KULDIP SINGH]  
JUDICIAL MEMBER

Sd/-

[R.S. SYAL]  
VICE PRESIDENT

Dated, 13<sup>th</sup> December, 2017.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.