

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'SMC-C', BANGALORE**

BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA No.859 (Bang) 2016
(Assessment year : 2010 – 11)

Shri Pankaj Ranka,
No. 57A, 15th Cross,
Cubbonpet Main Road,
Bengaluru - 560002
PAN. ADZPR8650H

Appellant

Vs

The ITO, Ward 5 (3),
Bengaluru

Respondent

Assessee by : Shri L. Bharath, C. A.
Revenue by : Dr. Sandeep Goel, Addl. CIT

Date of hearing : 20-12-2017
Date of pronouncement : 21-12-2017

ORDER

PER A. K. GARODIA, A.M.:

This appeal is filed by the assessee which is directed against the order of CIT (A) – 5, Bangalore dated 10.02.2016 for A. Y. 2010 – 11.

2. The assessee has raised several grounds but the only grievance of the assessee is about disallowance of Rs. 616,980/- as prior period expenditure.

3. Heard both sides. This is the main submission of the learned AR of the assessee that the liability has crystallized in the present year and therefore, it should be allowed. He had drawn my attention to pages 3 & 4 of the assessment order where the AO has discussed the facts and decided the

issue. He pointed out that it was submitted before the AO that as per the understanding of the assessee with M/s Reliance Limited, if the assessee brings in bulk business, trade discount will be allowed to the assessee and it has to be passed on to the customer of the assessee i.e. M/s Vijaymohini Mills. It is also noted by the AO that as per the submission of the assessee, the assessee received Rs. 786,972/- as discount from M/s Reliance in FY 2008 – 09 (A. Y. 2009 – 10) and it was offered to tax in that year because due to non reconciliation of accounts with M/s Vijaymohini Mills, the discount could not be passed on to this party in that year and in the present year, after a lot of discussion and deliberation, the accounts were finally reconciled on 18.03.2010 and by that time, the accounts for A. Y. 2009 – 10 were finalized and therefore, the discount was passed on to M/s Vijaymohini Mills in the present year. He pointed out that this is not the case of the AO that these submissions of the assessee are incorrect. He pointed out that this is the objection of the AO that the expenditure cannot be allowed in the year in which the difference was reconciled. In my considered opinion, this is settled law that if the liability has crystallised in a later year, deduction is allowable in that year. Hence, if the assessee is able to establish that the liability to pass on discount to M/s Vijaymohini Mills has crystallised in the present year, deduction is allowable in the present year but there is no finding of AO or CIT (A) on this aspect. Therefore, I feel it proper to restore this matter to AO for a fresh decision. Accordingly, I set aside the order of CIT (A) and restore this matter to AO for a fresh decision with the direction that the assessee has to establish that the liability to pass on discount to

M/s Vijaymohini Mills has crystallised in the present year. If the assessee is able to do so, deduction to that extent should be allowed in the present year.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(A.K. GARODIA)
ACCOUNTANT MEMBER

Bangalore:

D a t e d : 21.12.2017.

/MS/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.