

IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN
BEFORE S/SHRI CHANDRA POOJARI, AM & GEORGE GEORGE K., JM

I.T.A. Nos. 474, 484 & 485/Coch/2016
Assessment Years : 2012-13, 2003-04 & 2007-08

The Assistant Commissioner of Income-tax, Circle-1(1), Range- 1, Trivandrum		M/s. Kerala Livestock Development Board Ltd., Gokulam, Pattom, Trivandrum. [PAN:AAACK 9533D]
(Revenue-Appellant)		(Assessee-Respondent)

Revenue by	Shri A. Dhanaraj, Sr. DR
Assessee by	Smt. Sumathy Dandapani, Adv.

Date of hearing	17/01/2018
Date of pronouncement	01 st /02/2018

ORDER

Per GEORGE GEORGE K., JUDICIAL MEMBER:

These appeals at the instance of the Revenue are directed against the orders of the CIT(A), Trivandrum dated 14/07/2016 concerning assessment year 2012-13 and the other order of the CIT(A) dated 22/08/2016 concerning assessment years 2003-04 and 2007-08.

2. Since common issues are raised in these appeals, they were heard together and are being disposed of by this consolidated order. We shall first take up for adjudication ITA No. 474/Coch/2016 concerning assessment year 2012-13.

ITA No. 474/Coch/2016 (AY 2012-13)

3. The grounds raised by the Revenue read as follows:

1. The learned Commissioner of Income Tax(Appeals), Trivandrum erred in deleting the addition relying on the decision of Hon'ble Supreme Court in the case of Sahaney Steel and Press Works Ltd. Vs. CIT (228 ITR 253) and held that what appellant had received both from the Central Government and State Government is nothing but grants in aid received for the purpose of setting up of its business and to complete the projects and it was received for capital purposes.

2. The CIT(A) ought to have considered the fact that the unspent balance of grants in aid not earmarked for any capital expenditure and it should be brought to tax.

3. For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the Commissioner of Income Tax (Appeals) may be set aside and that of the Assessing Officer restored.

3.1 Briefly stated the facts of the case are as follows:

The assessee is a Government company. It is engaged in the activity of production and distribution of frozen semen and also conducts research in cattle breeding, fodder production etc.. The assessee is having units in various districts all over the State of Kerala. For the assessment year 2012-13, the return of income was filed on 30/09/2012, declaring total income at Rs.1,40,64,800/-. The assessment was taken up for scrutiny by issuance of notice u/s. 143(2) of

the I.T. Act. The scrutiny assessment u/s. 143(3) of the Act was completed vide order dated 26/03/2015. The Assessing Officer made an addition of Rs.41,61,30,489/-, being the unspent balance of grant received by the assessee as on 31/03/2012. The Assessing Officer held that the grants received are not capital receipts but for the business activities of the assessee company and therefore it is a revenue receipt. The relevant observation of the Assessing Officer in making the above addition reads as follows:

(Pg. 2 of AO) "It is noticed that the assessee has been receiving grants from the Govt. of Kerala and of India for its various business activities through different schemes/projects. During the previous year, relevant to AY 2012-13, the assessee has received such grants and the position of the unspent balance of grant so received, to the tune of Rs.41,61,30,489/- was not taken to the P&L a/c at the end of the year. As these grants received were not earmarked for any capital expenditure and these were received for the business activities of the assessee company, the unspent balance should be brought to tax. As per IT Act, receipts otherwise than of a capital nature is subject to tax."

3.2 Aggrieved by the assessment order, the assessee preferred an appeal to the first appellate authority. The CIT(A) after elaborately considering the submissions made by the assessee, held that the amounts received from the Central Government and the State Government are not subsidy but only a grant-in-aid to do specific/designated work. It was further held by the CIT(A) that there is no logic for the Assessing Officer to tax as revenue receipt only the unspent portion of the grant-in-aid. It was concluded by the CIT(A) that if at all the Assessing Officer's contention that the amounts received by the assessee

from the Central Government and the State Government are not capital receipts, the entire amount ought to have been taxed and not merely the unspent portion of the grant-in-aid. The CIT(A) allowed the appeal of the assessee on this issue. The relevant finding of the CIT(A) reads as follows:

"6. Considering all the above, I am of the opinion that what was received by the appellant from the Government is only grant in aid and not subsidy. Once it is established that subsidy has not been received by the appellant then the question of bringing to tax the unspent fund received while treating the same as not capital in nature, doesn't arise. This apart, if at all, the unspent balance amount has to be brought to tax then the entire grant received during the year should have been treated as revenue receipt and accordingly, assessed to tax. This was not done by. The Assessing Officer has added to the income returned only the unspent grant outstanding during the year. Partial disallowance of balance amount of grant received is very much illogical and cannot be within the permissible limit of the Act as well. It can further be seen that grant received for meeting certain administrative and day to day expenses are booked separately in the profit and loss account. In view of this, what was received by the appellant is nothing but grant and since it was received both for acquiring capital assets and implementing the schemes and projects, the grants are of capital in nature and cannot brought to tax.

7. It is not the case of the Assessing Officer that he brought to tax the entire amount of grant received during the year but considered for tax only the balance amount of grant actually spent as capital receipt. The Assessing Officer cannot have two different stand, to treat the portion of the grant which was brought to tax as revenue receipt and the balance grant as capital receipt. Here also he committed a mistake since he considered Rs.29.35 cr the brought forward unspent grant (opening balance on 01.04.2011) to make the addition of Rs.41.61 cr. If at all addition is required, it could be only against the grant received during the year but not taking into account the brought forward balance of earlier years. It is also not the case of the Assessing Officer that the appellant had not disallowed depreciation on the capital assets which were acquired by using the grants received during the year. It could be seen from the profit and loss account that depreciation of Rs.2,22,29,369/- on the assets

acquired out of the grants received has been written back and shown as income without which the returned income of Rs.1,40,64,800/- could not have been worked out. It is also further not the case of the Assessing Officer that grants received were not utilized for the purpose for which it was granted and utilization certificate for each project and scheme was not submitted to the respective Governments. In the circumstances, the grants received neither forming part of the revenue of the appellant nor credited to the profit and loss account as income. Since these grants are not forming part of the revenue, the unspent balance cannot be treated as revenue receipt and taxed. As ruled by the Hon'ble Supreme Court in the case of Sahney Steel and Press Works Ltd vs CIT (228 ITR 253), if the purpose is to help the assessee to set up its business or to complete a project then the money's must be treated as having been received for capital purposes. But if money's are given to the assessee for assisting him in carrying out the business operations and the money is given only after and conditional upon commencement of production, such subsidies must be treated as assistance for the purpose of trade.

8. It is in this background, respectfully following the decision of the Hon'ble Supreme Court mentioned above, it is hereby held that what the appellant had received both from the Central Government and State Government is nothing but grants in aid received for the purpose of setting up of its business and to complete the projects and it was received for capital purposes. Hence, the hereby deleted and accordingly, the appeal is allowed."

3.3 Aggrieved by the order of the CIT(A), the Revenue has filed the present appeal before the Tribunal. The Ld. DR submitted that these amounts received from the Government of India and the Government of Kerala, are not earmarked for any capital expenditure and they were received for the business activities of the assessee-company. Therefore, it was contended that the Assessing Officer has rightly brought to tax the unspent balance as revenue receipt. The Ld. DR has also filed balance sheet and P&L account for the relevant assessment year, 2012-13.

3.3.1 The Ld. AR on the other hand filed a brief written submission along with certain annexures and reiterated the submissions made before the income tax authorities. The Ld. AR strongly supported the findings/conclusion of the CIT(A).

3.4 We have heard the rival submissions and perused the material on record. It is the case of the assessee that grants received are for the specific purposes envisaged by the Government of India and the same can be utilized only for that purpose. It was submitted by the assessee that grants are released based on budget estimates and unspent balance as on 31.03.2012 has to be utilized only for the sanctioned purpose in the subsequent years. It was submitted that the schemes would not end within a year and the unspent balance would be carried over for many years, till the projects/schemes are completed. It was stated that the schemes envisaged are for the enduring benefit of the whole nation. It was submitted that the grants are released based on the utilization certificate issued every year.

3.4.1 The projects/schemes are envisaged by Government of India, Ministry of Agriculture, Department of Animal Husbandry whereby specific amounts are disbursed for implementing the Centrally sponsored scheme like Conservation of Malabari Goat, Piggery Development Programme, National Fodder Production Programme, Cattle and Buffalo breeding etc. The assessee had produced

letters of the Government of India, Ministry of Agriculture to explain how these grants are disbursed to the assessee. The assessee has also produced a copy of agreement entered into between the assessee and the President of India acting through Director (AH), Department of Animal Husbandry, Dairying & Fisheries, Ministry of Agriculture, Government of India, whereby the assessee is to construct state of the art semen station for production of quality frozen semen. On perusal of the letters of the Government of India, whereby the assessee is advanced grants, the agreements entered between assessee and the Government, it is clear that the assessee is acting as a nodal agency for the implementation of the Government sponsored programmes/schemes. The Government authorities are closely monitoring each scheme and its implementation. The unspent amounts are either returned or appropriated to new/revised schemes as per respective government orders. The detailed breakup of the funds received and utilization of various schemes relating to the assessment years under consideration is on record. It can be seen that only on utilizing the released amount that the new funds are released by the Government.

3.4.2 During the assessment year 2012-13, the assessee had unspent balance of Rs.41,61,30,489/- which includes opening balance of Rs.20,35,12,103/- brought forward from the immediately preceding year. The unspent balance of grant of various government schemes as on 31/03/2012 are detailed below:

UNSPEND BALANCE ON VARIOUS CENTRAL AND STATE GOVT SCHEMES AS ON
31-03-2012

No	Schemes	Amount
1.	Conservation of Malabari Goat	33,02,101.00
2.	Plan Funds – Govt. of Kerala	3,22,30,651.87
3.	Other Scheme expenses	87,946.00
4.	Piggery Development Programme (GOK)	2,09,523.00
5.	National Fodder Production Programme	21,21,045.50
6.	Piggery Development Programme (GOI)	10,86,247.00
7.	Livestock Insurance Scheme	55,69,502.62
8.	Strengthening Goat Breeding Centre Dhoni – GOK	11,57,783.00
9.	RKVY Scheme	13,93,99,663.00
10.	Sree Chithra Heart Valve Production	7,12,259.00
11.	Goat Development Programme(DAH)	13,27,304.00
12.	Attappadi Black Goat Scheme (GOI)	1.19,96,521.00
13.	Establishment of Fodder Pelleting Units	1,94,354.00
14.	Grass Land Development Kolahalamedu	1,77,202.00
15.	State Livestock Insurance	6,12,71,381.00
16.	Modern Bull Mother Farm – GOK	84,97,337.00
17.	AI Network –IDRSS	46,77,055.00
18.	Buffalo Breeding, Kuriottumal - GOK	5,00,000.00
19.	DLF – Kudapanakunnu PIT SILO MAKING- GOK	4,82,509.00
20.	State Horticulture Mission	88,750.00
21.	Establishment of Silage Making Units-GOK	29,20,089.00
22.	Hitech – Kolahalamedu – GOK	5,38,00,000.00
23.	Introduction of Goat units – Kuttanad-GOI	2,68,18,795.00
24.	Introducion of Hand Driven Chaff Cut – GOK	9,37,500.00
25.	Skill Development –Self Employ-DAH-GOK	0,00,000.00
26.	Special livestock & Fisheries – GOI	1,73,33,122.00
27.	Kuttanad Eco System – GOI	19,10,021.00
28.	Idukki Package – GOI	3,53,21,828.00
	TOTAL (1 to 28)	41,61,30,489.99

3.4.3 The detailed position of the schemes from 01/04/2002 till 31/03/2015 is also on record. It can be seen that there is 'nil' balance in certain schemes of heads in which grants are received. This is because those schemes are terminated or wound up or closed during that year. The scheme can be closed

only after utilizing the funds allotted for the scheme or on the expiry of the period for which the scheme is sanctioned. It can be seen that when certain schemes are closed without utilizing the full grant that amounts are returned to the respective sanctioning authority. In the financial year 2013-14, with regard to Buffalo Breeding Scheme, Kuriyottumala, refund letter dated 22/08/2012 addressed to the Department of Animal Husbandry intimating the return of grant is on record. Similarly, in the financial year 2016-17, Rs.191.60 lakhs and Rs.74 lakhs were refunded from the fund allotted for RKVY Scheme. The relevant letters addressed to the Director of Agriculture are also on record. In some cases, the unspent balance in one scheme is carried over to new scheme with the permission of the sanctioning authority. The relevant permission of the sanctioning authority is also on record. The chartered accountant's certificates are also available on record stating that the grant received for specific purpose have been utilized for that specific purpose itself. It is also noticed that the grants are released based on the budget estimates. Moreover the grants were given based on the utilization certificate issued by the authorities concerned.

3.4.4 The Assessing Officer had brought to tax the unspent portion of the grant received by the assessee for the reason that the amounts that are unspent are not earmarked for any capital expenditure and therefore, it is a revenue receipt and ought to have been taxed. This reasoning of the Assessing Officer, as rightly pointed out by the CIT(A) is illogical. If the Assessing Officer's

contention is correct that the grants received by the assessee are revenue receipts, then not only the unspent portion of the same but the entire grant received during the year ought to have been brought to tax. The grants that are received for meeting certain administrative and day to day expenses are booked separately in the P&L account and the same is evidenced on perusal of the P&L account which is placed on record. The amounts that are subject of adjudication before us are only those amounts that are received by the assessee as grant-in-aid for acquiring capital assets and implementation of specific schemes and projects as envisaged by the Central Government and the State Government. These grants cannot be brought to tax as revenue receipts since assessee is only a nodal/implementing agency for the schemes envisaged by the respective governments.

3.4.5 In this context, let us examine some of the judicial pronouncements on this issue.

(i) Hon'ble Punjab & Haryana High Court in the case of CIT vs. The Punjab State-E-Governance in ITA No. 75 of 2011 (judgment dated 21st April, 2011) was considering the following substantial question of law:

i) Whether in the facts and circumstances of the case and in law the ITAT was justified in upholding the decision of Id. CIT(A) and deleting

the addition of j Rs.10,80,40,212/- made by the A.O. on account of unutilized portion of grant received from the State Government?

*ii) Whether in the facts and circumstances of the case and in law the ITAT was justified in upholding the decision of Id. CIT(A) and deleting the addition of Rs.65,89,6787- made by the A.O. on account of interest earned on *** FDRs?"*

In considering the above substantial question of law, the Hon'ble High Court held that grant in aid received from the government for specific purpose cannot be taxed in the hands of the assessee. It was further held by the Hon'ble High Court that the interest received by the assessee on the amount of grant deposited in the bank was also in the nature of grant itself.

(ii) The Hon'ble High Court of Karnataka in the case of CIT vs. Karnataka Urban Infrastructure Development and Finance Corporation reported in 284 ITR 582 held that the amounts received by the Centre for implementing certain schemes envisaged by the Government is not taxable in the hands of the assessee since the assessee is only an implementing agency. It was further held by the Hon'ble High Court that the interest from deposits made out of the grants received from the Government is also not taxable.

(iii) The Hon'ble High Court of Karnataka in the case of CIT vs. M/s. India Telephone Industries Ltd. in ITA No. 73/2009 (judgment dated 18-03-2013) was considering the following substantial question of law:

"Whether the Tribunal was correct in holding that the grant-in-aid of Rs.38,02,801/- received by the assessee from , the Government of India should be treated as 'capital receipt' and cannot be treated as 'revenue receipt'?"

In adjudicating the above substantial question of law, the Hon'ble High Court held as follows:

"It is in the back ground of the aforementioned judgment when we look to the facts of this case, it is clear that the object of the grant-in-aid is for the specific purpose of conducting research in the field of telecommunications, so that the benefit thereof would endure to the Nation. May be on account of said research, the assessee is able to manufacture a better or more sophisticated product, they may be able to earn more. But the object with which this grant-in-aid is given to the assessee is for conducting research and improving existing telecommunication systems. In other words, the grant-in-aid is not given to the assessee for carrying on its day-to-day business. Infact, if after research if the assessee is able to acquire new ideas or new knowledge and use the same in its manufacturing activity, it would be a case of acquisition of such new idea which in itself would constitute an intellectual property. It is to acquire such capital asset, the grant-in-aid is given. It also helps in the growth of the assessee generally in public interest, so as to assist the assessee to acquire the new capital asset and the said benefit may be incidental to the business of the assessee. It is in the nature of capital asset. Once it is to be held as capital asset, even if the records maintained by the assessee, they show as revenue expenditure, it would not make any difference in law, as the liability to tax is depending on the object with which the grant-in-aid is given to the assessee. In that view of the matter, the facts of this case, when the grant-in-aid is given to the assessee for research in the field of telecommunications, which in-turn would benefit the Nation and public at large, the said income is only a

'capital receipt' and not a 'revenue receipt' as contended by the revenue. In that view of the matter. we do not find any merit in this appeal. The substantial question of law is answered in favour of the assessee and against the revenue. Accordingly, appeal is dismissed."

(iv) The ITAT, Chandigarh in the case of The Chief Administrator, Haryana Rural Development Authority vs. The DCIT in ITA No.742/Chd/2012 dated 22/01/2014 held that where the authority had been constituted by the government for the specific purposes of carrying on the activities of the government and where the grants and advances or loans are disbursed by the government to the assessee, the said grants, advances cannot be held to be the income of the assessee as the said grants/advances are released to the assessee for the specific purposes for carrying on the development work.

3.4.6 In the light of the aforesaid facts and judicial pronouncements mentioned above, I hold that the unspent grant received by the assessee from the Government as on 31/03/2012 amounting to Rs.41,61,30,489/- cannot be brought to tax as revenue receipt.

3.5 In the result, the appeal of the Revenue in ITA No. 474/Coch/2016 is dismissed.

ITA No. 484/Coch/2016: (AY : 2003-04)

4. The grounds raised are as follows:

1. The learned Commissioner of Income Tax(Appeals), Trivandrum erred in deleting the addition relying on the decision of Hon'ble Supreme Court in the case of Sahaney Steel and Press Works Ltd. Vs. CIT (228 ITR 253) and held that what appellant had received both from the Central Government and State Government is nothing but grants in aid received for the purpose of setting up of its business and to complete the projects and it was received for capital purposes.

2. The CIT(A) ought to have considered the fact that the unspent balance of grants in aid not earmarked for any capital expenditure and it should be brought to tax. The learned CIT(A) has failed to look into the finding of the Assessing Officer that payment was not a subsidy for setting up the plant but a grant for the efficient and profitable running of the industry and its growth. The receipts were therefore revenue in nature.

3. The learned CIT(A) has deleted the addition of brought forward sundry creditors on the basis of assurance given to the assessee that they are making reconciliation and the amount which has no claim from parties will be offered to tax during relevant year once the reconciliation process is over.

4. The CIT(A) ought to have allowed the addition as the assessee had failed to produce the reconciliation even during the appeal proceedings.

5. For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the Commissioner of Income Tax(Appeals) may be set aside and that of the Assessing Officer restored.

4.1 In the above grounds, the Revenue has raised two issues:

(i) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer on the unspent balance of grant in aid received from the Government as on 31/03/2003.

(ii) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer on account of sundry credits.

(i) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer, being the unspent balance of grant in aid as on 31/03/2003 received by the assessee from the Government.

4.2 This issue has already been considered by us in ITA No. 474/Coch/2016. For the reason mentioned in paras 3.4 to 3.4.6(supra), we hold that the unspent balance of grant as on 31-03-2003 received by the assessee from the Government cannot be brought to tax as revenue receipt. It is ordered accordingly.

(ii) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer on account of sundry credits.

4.3 The Assessing Officer had made an addition of Rs.12,35,813/-, being the sundry creditors. According to the Assessing Officer these were old balance and was outstanding for quite some time. According to the Assessing Officer, these are not legally enforceable by the creditors and hence liable to be taxed.

4.4 Aggrieved by the addition of Rs.12,35,813/- made by the AO, the assessee, among other issues, filed an appeal before the first appellate authority. The contention raised by the assessee before the CIT(A) is reproduced below:

"The amount of Rs.12,35,813/- is the balance of sundry creditors during the Assessment Year 2003-04. The above amount is not fully unclaimed and old balances. This amount includes security deposit from the contractors, earnest money deposit, deposit for assuring performance of contracts, stale cheques return, purchases made from outside state etc. This will be adjusted/returned as and when the final settlements are made

by the contractors/purchasers. The exact old balances will be traced out and reported."

The CIT(A) deleted the addition of Rs.12,35,813 by observing as follows:

"6.2 Under the provisions of the Act, unexplained sundry creditors which are crystallized during the current year alone can be considered for making the addition. The brought forward old balances which could still be claimed by the parties concerned during the year under consideration cannot be considered for making the addition. The conditions precedent for making such addition can either be crystallized or disowned by the parties concerned during the year under consideration. In the absence of both the conditions been fulfilled in the instant case, the brought forward old sundry creditors because of the above mentioned reasons, cannot represent a benefit accrued to the appellant during the year under consideration. The argument of the appellant that these balances includes security deposits from the customers, earnest money deposits, deposits for assuring performance of contracts etc and will be adjusted/returned as and when the final settlement is made, would in no way authorize the Assessing Officer to treat the same as a benefit accrued to the appellant. Considering the assurance given by the appellant that they are making reconciliation and the amount which has no claim from the parties will be offered for tax during the relevant year once the reconciliation process is over, I have no other option but to delete the addition made since the same has not been justified by the Assessing Officer. However, the appellant is hereby directed to complete the reconciliation exercise at the earliest possible and report the outcome to the officer for further necessary action if need be, to be taken in this regard. Appeal on this ground is also allowed."

4.5 Aggrieved by the order of the CIT(A), the Revenue had raised this issue in the present appeal. The Ld. DR relied on the grounds raised in the Memorandum of Appeal. The Ld. AR on the other hand relied on the findings/conclusion of the CIT(A).

4.6 We have heard the rival submissions and perused the material on record. The CIT(A) has deleted the addition based on the assurance given by the assessee that reconciliation of the outstanding sundry creditors would be completed and unenforceable credits of sundry creditors would be offered to tax. In the interest of justice and equity, we are of the view that the Assessing Officer should be granted an opportunity to examine the reconciliation statement of sundry creditors filed by the assessee. Therefore, this issue is restored to the files of the Assessing Officer. The Assessing Officer shall expeditiously dispose off the matter, after affording reasonable opportunity of hearing to the assessee. It is ordered accordingly.

4.7 In the result, the appeal of the Revenue in I.T.A. No. 484/Coch/2016 is partly allowed for statistical purposes.

ITA No. 485/Coch/2016 (AY 2003-04)

5. The grounds raised read as follows:

1. The learned Commissioner of Income Tax(Appeals), Trivandrum erred in deleting the addition relying on the decision of Hon'ble Supreme Court in the case of Sahaney Steel and Press Works Ltd. Vs. CIT (228 ITR 253) and held that what appellant had received both from the Central Government and State Government is nothing but grants in aid received for the purpose of setting up of its business and to complete the projects and it was received for capital purposes.

2. The CIT(A) ought to have considered the fact that the unspent balance of grants in aid not earmarked for any capital expenditure and it should be brought to tax. The learned CIT(A) has failed to look into the finding of

the Assessing Officer that payment was not a subsidy for setting up the plant but a grant for the efficient and profitable running of the industry and its growth. The receipts were therefore revenue in nature.

3. The learned CIT(A) has deleted the addition of interest accrued on treasury savings deposits.

4. The CIT(A) ought to have allowed the addition as the assessee had not produced the ledgers for interest receivable account even during the appeal proceedings.

5. For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the Commissioner of Income Tax(Appeals) may be set aside and that of the Assessing Officer restored.

5.1 In the above grounds, the Revenue has raised two issues:

(i) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer, being the unspent balance of grant in aid as on 31/03/2007 received by the assessee from the Government.

(ii) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer on account of interest accrued on treasury savings deposits.

(i) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer, being the unspent balance of grant in aid as on 31/03/2007 received by the assessee from the Government

5.2 This issue has already been considered by us in ITA No. 474/Coch/2016. For the reason mentioned in paras 3.4 to 3.4.6(supra), we hold that the unspent balance of grant as on 31/03/2007 received by the assessee from the Government cannot be brought to tax as revenue receipt. It is ordered accordingly.

(ii) Whether the CIT(A) is justified in deleting the addition made by the Assessing Officer on account of interest accrued on treasury savings deposits.

5.3 The Assessing Officer had made the addition of Rs.37,85,470/-. The Assessing Officer held that interest had accrued, since the assessee was following the mercantile system of accounting, and hence liable to be taxed. The relevant observation of the Assessing Officer reads as follows:

"The assessee offered interest income towards deposits and loans as the interest received only (schedule-D). but as per schedule D-II forming part of balance sheet, an amount of Rs.40,13,677/- has been receivable on Treasury Savings Bank as interest accrued on deposits. As on 31/03/2006, the interest accrued on deposit is Rs.2,28,207/-. As the assessee follows mercantile system of accounts, the interest accrued in the current year should also be taken as income."

5.4 Aggrieved by the order of the assessment, the assessee preferred an appeal to the first appellate authority. The CIT(A) deleted the addition. The relevant observation of the CIT(A) reads as follows:

"11.3 A copy of the interest account filed for verification has been gone through and found that the interest accrued during the year under consideration has rightly been taken into account and the addition made to the income returned has actually resulted in double addition. Hence, the addition made of Rs.37,85,470/- is hereby deleted. However, the appellant is hereby directed to furnish/produce copies of both interest receivable and interest account for the Assessing Officer to verify afresh the interest account and to satisfy himself that the addition made had resulted in double addition. In view of the above, the appeal on this ground is allowed for statistical purposes."

5.5 Aggrieved by the order of the CIT(A), the Revenue had raised this issue in the present appeal. The Ld. DR relied on the grounds raised in the

Memorandum of Appeal. The Ld. AR on the other hand relied on the findings/conclusion of the CIT(A).

5.6 We have heard the rival submissions and perused the material on record. The CIT(A) had only directed the Assessing Officer to verify whether interest accrued on treasury savings deposits amounting to Rs. 37,85,470/- is offered to tax on the basis of mercantile system of accounting. We do not find any infirmity in the finding of the CIT(A) and confirm the same. It is ordered accordingly.

5.7. In the result, the appeal of the Revenue in I.T.A. No. 485/Coch/2016 is dismissed.

6. In the result, the appeals of the Revenue in:

- i) ITA No. 474/Coch/2016 is dismissed.
- ii) ITA No. 484/coch/2016 is partly allowed for statistical purposes.
- iii) ITA No. 485/Coch/2016 is dismissed

Pronounced in the open court on 1st February, 2018

sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

sd/-
(GEORGE GEORGE K.)
JUDICIAL MEMBER

Place: Kochi
Dated: 1st February, 2018
GJ

Copy to:

1. M/s. Kerala Livestock Development Board Ltd., Gokulam, Pattom, Trivandrum.
2. The Assistant Commissioner of Income-tax, Circle-1(1), Range-1, Trivandrum
3. The Commissioner of Income-tax(Appeals), Trivandrum.
4. The Pr. Commissioner of Income-tax,Trivandrum.
5. D.R., I.T.A.T., Cochin Bench, Cochin.
6. Guard File.

By Order

(ASSISTANT REGISTRAR)
I.T.A.T., Cochin