

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**श्री वी. दुर्गराव, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.128/Viz/2016
(निर्धारण वर्ष/Assessment Year:2006-07)**

The Asst. Commissioner of Income-Tax
Circle-1(1), Guntur

Vs. M/s Bommidala Packagings
Ltd., D.No.4-20-24,
Ring Road
Guntur
[PAN :AAAC9113C]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Y Sesa Srinivas, DR

प्रत्यर्थी की ओर से / Respondent by

: Shri I Kama Sastry, AR

सुनवाई की तारीख / Date of Hearing

: 08.02.2018

घोषणा की तारीख/Date of Pronouncement

: 21 .02.2018

आदेश /O R D E R

PER D.S. SUNDER SINGH, Accountant Member:

This appeal is filed by the revenue against the order of the
Commissioner of Income-Tax (Appeals) [CIT(A)]-1, Guntur vide ITA

No.241/CIT(A)-1/GNT/2013-14 dated 08.02.2016 for the assessment year 2006-07.

2. The assessment was completed u/s 143(3) on total income of Rs.Nil by an order u/s 143(3) r.w.s.147 on 29.12.2009. Subsequently the AO found that there was a mistake in total sales as per the TDS certificates. The total sales as per the TDS certificates were Rs.5,83,74,100/-, whereas the assessee had admitted total sales of Rs.5,08,44,437/-. The AO observed that the sales relating to M/s Hindustan Lever Limited, Uttaranchal amounting to Rs.75,29,663/- omitted to have included in the total sales, hence issued notice u/s 154 after giving opportunity to the assessee, passed rectification order determining the total income of Rs.94,22,292/- after set off of losses, the revised total income was also assessed at Rs.Nil.

3. Aggrieved by the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) allowed the appeal of the assessee holding that the assessee is following Mercantile system of accounting and excluded the excise duty or sales tax and admitted the net sales in the profit and loss account and observed that there was no difference in sales and accordingly allowed the appeal of the assessee.

4. Aggrieved by the order of CIT(A), the revenue is in appeal before this Tribunal. During the appeal hearing, the Ld.DR argued that there was a mistake in the total sales admitted by the assessee as per the TDS certificates and as per the total sales admitted by the assessee. Though the assessee has furnished the reconciliation statement to the AO, the assessee has not produced the books of accounts to verify the correctness of the reconciliation statement. The Ld.CIT(A) also relied on the reconciliation statement submitted by the assessee but not verified the correctness of the reconciliation with the books of accounts. The Ld.DR further submitted that only issue involved in this case is non admission of sales of Hindustan Lever Ltd. which can be verified from the books of accounts. Hence argued that the issue should be remitted back to the file of the AO to verify the correctness of the reconciliation statement and to pass appropriate orders.

5. On the other hand the Ld.AR vehemently opposed to remit the matter back to the file of the AO and supported the orders of the Ld.CIT(A). The Ld.AR filed a paper book enclosing the ledger copy of the sales made for the period from 01.04.2005 to 31.03.2006 and furnished the details of the sales made during the relevant year. The Ld.AR also furnished the bill wise amount for which the TDS was not deducted by M/s Hindustan Lever

Limited, Uttaranchal amounting to Rs.75,29,663/- . The Ld.AR argued that there was no understatement of sales and the assessee had accounted the entire sales hence argued that the order of the Ld.CIT(A) does not require interference.

6. We have heard both the parties and perused the material on record. On perusal of the reconciliation statement and the sales account we are of the opinion that there was considerable merit in the submission made by the Ld.A.R. However, though the assessee has filed reconciliation statement before the AO, neither the AO nor the CIT(A) has verified the same with books of accounts to find out whether the sales of Hindustan Lever Ltd were admitted for the assessment year 2006-07 or not? Though the assessee had reconciled the sales it is obligation on the part of the assessee to demonstrate the correctness of the reconciliation with the books of accounts. Therefore in the interest of justice, we are of the considered opinion that the issue should be remitted back to the file of the AO to verify the correctness of reconciliation statement filed by the assessee with the books of accounts and to verify the sales made to M/s Hindustan Lever Limited as per page No.3 of the paper book was admitted in the return of income or not and to pass appropriate orders u/s 154.

Accordingly, the issue is remitted back to the file of the AO and the appeal of the revenue is allowed for statistical purposes.

7. In the result, appeal of the revenue is allowed for statistical purpose.

The above order was pronounced in the open court on 21st Feb 2018.

Sd/-
(वी. दुर्गराव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 21.02.2018

L.Rama, SPS

Sd/-
(डि.एस. सुन्दर सिंह)

(D.S. SUNDER SINGH)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. अपीलार्थी / The Appellant- The Asst. Commissioner of Income-Tax, Circle-1(1), Guntur
2. प्रत्यर्थी / The Respondent- M/s Bommidala Packagings Ltd., D.No.4-20-24, Ring Road, Guntur
3. The Pr.Commissioner of Income Tax, Guntur
4. The Commissioner of Income Tax(Appeals)-1, Guntur
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR, ITAT, Visakhapatnam
6. गार्डफाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, VISAKHAPATNAM