

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH 'A', KOLKATA**

**[Before Shri P.M. Jagtap, AM and Shri S.S. Viswanethra Ravi, JM]**

**I.T.A. No. 1075 & 1076/Kol/2016  
Assessment Years: 2008-09 & 2010-11**

**M/s. J.D. Marketing Pvt. Ltd.....Appellant**  
**Cookme House,**  
**235, Maharshi Debendra Road,**  
**Kolkata - 723 007**  
**[PAN : AABCJ 2681 E]**

**DCIT Circle 2(1), Kolkata.....Respondent**  
**Aayakar Bhawan,**  
**Kolkata - 700069.**

**Appearances by:**

**Shri P.K. Ghosh, FCA appearing on behalf of the Assessee.**

**Shri Nicolas Murmu, JCIT appearing on behalf of the Revenue.**

**Date of concluding the hearing : May 07, 2018**

**Date of pronouncing the order : May 11, 2018**

**ORDER**

**PER P.M. JAGTAP, A.M.**

These two appeals filed by the assessee are directed against two separate orders passed by the Ld. CIT(Appeals) - 1 Kolkata both dated 10.03.2016 for A.Y. 2008-09 and 2010-11 and since they involve a common issue, the same have been heard together and are being disposed of by a single consolidated order.

2. First we take up the appeal of the assessee for A.Y. 2008-09 being ITA No. 1075/Kol/2016 which involves the solitary issue relating to the assessee's claim for process loss in respect of production of red chilly powder.

3. The assessee in the present case is a company which is engaged in the business of manufacturing and sale of spices. The return of income for the year under consideration i.e. A.Y. 2008-09 was filed by it on 27.09.2008 declaring a total income of Rs. 3,64,67,396/-. During the course of assessment proceedings, it was noticed by the A.O. that the process loss in respect of production of red chilly powder shown by the assessee at 8.77% was substantially more than the average process loss in respect of production of other three items shown at 5.17%. Since the assessee could not offer any satisfactory explanation in this regard, the A.O. restricted the claim of the assessee for process loss in respect of red chilly powder production to 6.17% being 1% more than the average process loss in respect of production of other three items which resulted in a disallowance of Rs. 5,91,358/-.

4. The disallowance made by the A.O. by restricting the claim for process loss of 8.77% to 6.17% in respect of red chilly powder production was challenged by the assessee in the appeal filed before the Ld. CIT(A) and by following the assessee in the appeal filed before the Ld. CIT(A) and by following the decision of the Tribunal in assessee's own case for A.Y. 2005-06 and 2006-07 rendered vide its common order dated 10.02.2016 passed in ITA No. 700, 701, 811 & 812/Kol/2013, the Tribunal restricted the same to 6%. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

5. We have heard the arguments of both the sides and also perused the relevant material available on record. As pointed out by the learned counsel for the assessee from the relevant portion of the

order of the of the Tribunal dated 10.02.2016(supra), a similar issues relating to process loss in production of red chilly powder was involved in assessee's own cases for A.Y. 2006-07 and while deciding the same, the claim of the assessee for such process loss was allowed by the Tribunal to the extent of 8%. It appears that the Ld. CIT(A), however, relied on the decision of the Tribunal on a different issue relating to shortage in the yield of raw-material consumption to restrict the same to 6% and this position clearly evident from the order of the Tribunal is not disputed even by the learned DR. We accordingly, modify the impugned order of the Ld. CIT(A) on this issue and direct the A.O. to allow the claim of the assessee for process loss in the production of red chilly powder to the extent of 8%. The appeal of the assessee for A.Y. 2008-09 thus is partly allowed.

6. As regards the appeal of the assessee for A.Y. 2011-12, it is observed that although the assessee has challenged the order of the Ld. CIT(A) in restricting the process loss in respect of all the four products viz. Coriander, cumin, turmeric and red chilly, the learned counsel for the assessee has pressed only the issue relating to the assessee's claim for process loss in the production of red chilly powder which is allowed by the Ld. CIT(A) at 6% as against the claim of the assessee of 8.19%. Since this issue is similar to the one involved in assessee's appeal for A.Y. 2008-09 which has been decided by us in the foregoing portion of the order, we follow our conclusion drawn in A.Y. 2008-09 and direct the A.O. to allow the claim of the assessee for process loss in respect of production of red chilly to the extent of 8%. The appeal of the assessee for A.Y. 2010-11 is thus partly allowed.

**7. In the result, both the appeals of the assessee are partly allowed.**

Order Pronounced in the Open Court on 11<sup>th</sup> May, 2018.

Sd/-

(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

Sd/-

(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 11/05/2018**

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. J.D. Marketing Pvt. Ltd., Cookme House, 235, Maharshi Debendra Road, Kolkata 700 007.
2. DCIT, Circle – 2(1), Aayakar Bhawan, Kolkata – 700 069.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.  
ITAT, Kolkata