

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2649 & 2639/PUN/16
निर्धारण वर्ष / Assessment Years : 2006-07 & 2007-08

DCIT, Circle-8,
Pune

Vs. Eagle Agro Farms Pvt. Ltd.
Eagle Estate,
Talegaon Dabhade,
Pune – 410507

PAN : AAACE3848H

Appellant

Respondent

Appellant by
Respondent by

Shri Sanjeev Ghei
Shri M.K. Kulkarni

Date of hearing 07-02-2019
Date of pronouncement 08-02-2019

आदेश / ORDER

PER R.S.SYAL, VP :

These two appeals by the Revenue relate to the assessment years 2006-07 & 2007-08. For the sake of convenience, we have clubbed them for disposal.

A.Y. 2006-07 :

2. First ground raised in this appeal is against the deletion of addition of Rs.70,59,534/- made by the Assessing Officer (AO) on account of "Prior year expenses".

3. Briefly stated, the facts of the case are that the assessee suspended its business activity from the year 2003. Deduction of Rs.70,59,534/- was claimed in the year under consideration towards "Prior period expenses" under different heads. The AO made disallowance without assigning any specific reasons in respect of each of these items separately. The Id. CIT(A) partly allowed the same, against which the Revenue has come up in appeal before the Tribunal.

4. We have heard both the sides and perused the relevant material on record. We take up the items of disallowances one by one.

5. First item of disallowance is Rs.3,10,512/-, being, payment of Provident Fund. The Id. CIT(A) recorded that the deduction of provident fund was admissible on payment basis in terms of section 43B of the Income-tax Act, 1961 (hereinafter also called 'the Act'). He, therefore, directed the AO to delete the same after ascertaining if the assessee actually made the payment during the year. There is no fallacy in the reasoning given by the Id. first appellate authority. The impugned order is upheld on this score.

6. The second item of disallowance is a sum of Rs.10 lakh on account of "Export obligation payment". The Id. CIT(A) recorded that it was actually a payment towards property tax payable to Talegaon Municipality on the properties owned by the assessee. Such taxes were paid in two instalments of Rs.5 lakhs each on 31-01-2006 and 01-03-2006. The Id. CIT(A), therefore, held that these taxes were allowable expenses on payment basis u/s.43B. Nothing has been argued to controvert the correctness of the finding given in the first appeal. We do not find any reason to deviate from such a finding.

7. The next item of disallowance is payment of rent at Rs.9,82,000/-. The Id. CIT(A) recorded, after considering the remand report from the AO, that the assessee entered into an agreement on 26-11-1008 with M/s Atma Hatcheries for running their hatcheries plant. A Civil suit was filed by M/s Atma Hatcheries against the assessee company and the Hon'ble Civil Judge directed the assessee company to pay a sum of Rs.16,59,740/-. An out of Court settlement for Rs.9,82,000/- was made by M/s Shirdi Estate, a sister concern of the assessee, who paid this sum vide Demand Draft dated 28-03-2006. Since the settlement took place in the year

relevant to the assessment year under consideration and the amount was actually paid, we hold that the ld. CIT(A) was justified in treating this expenditure as not a prior period expenses and hence, eligible for deduction.

8. The next amount is disallowance of interest of Rs.43,93,619/-. M/s. Shirdi Estate, a sister concern of the assessee, paid this sum to Bank of Maharashtra on 23-05-2006 on behalf of the assessee. This led the ld. CIT(A) to hold that the amount was to be allowed as deduction on payment basis u/s.43B. Again, we are unable to find any infirmity in the impugned order on this score. The same is, therefore, countenanced.

9. The last component of the overall disallowance is Rs.3,73,403/- made by the AO on account of interest charges. On consideration of the remand report, the ld. CIT(A) allowed deduction for a sum of Rs.1,91,000/- which was paid by the assessee's sister concern during the year on entering into a MOU with M/s. M.J. Construction company and 3 other entities for settlement of their dues including interest. Since the interest was paid in the year under consideration, we hold

that the view taken by the ld. CIT(A) in deleting the addition to this extent is unexceptionable.

10. The second part of this disallowance at Rs.1,28,000/- has already been sustained by the ld. CIT(A). As such, there can be no cause of grievance to the Revenue against it.

11. The only other ground which survives in this appeal is against the deletion of disallowance u/s.43B amounting to Rs.28,88,148/-. The assessee company debited Rs.28.88 lakhs as "Interest and bank charges". The AO made disallowance for the same as it was not paid. On perusal of the remand report from the AO, the ld. CIT(A) noticed that payment of interest and bank charges totaling to Rs.28.88 lakh was made by the assessee's sister concern within the previous year relevant to the assessment year under consideration. In our considered opinion, the ld. CIT(A) was right in deleting the disallowance as it was a case of payment of interest by the sister concern for and on behalf of the assessee during the year in question.

A.Y. 2007-08 :

12. The only issue raised in this appeal is against deletion of disallowance of outstanding liabilities of Rs.1,68,95,875/-. The AO observed that there was outstanding liability of Rs.1.68 crore mainly to creditors and customers etc., which was shown as outstanding since 31-03-2006. On being called upon to explain as to why the amount should not be charged to tax as “cessation of trading liability”, the assessee contended that the same amount was voluntarily offered for taxation in the return for the A.Y. 2009-10. Not convinced, the AO made addition for the same, which came to be deleted in the first appeal.

13. Having heard both the sides and gone through the material available on record, it is seen that the AO has himself stated that the amount was outstanding since 31-03-2006. We fail to appreciate as to which event has happened in the year under consideration resulting into the “cessation of liability”. Further, since the assessee has himself admittedly offered this amount for taxation in its return for the A.Y. 2009-10, as was contended before the AO as well, we hold that the Id. CIT(A) was justified in deleting the addition.

14. In the result, both the appeals stand dismissed.

Order pronounced in the Open Court on 08th February, 2019.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 08th February, 2019
सतीश

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /
The CIT (Appeals)-6, Pune
4. The Pr.CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR
'A', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	07-02-2019	Sr.PS
2.	Draft placed before author	08-02-2019	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

*