

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri S.Rifaur Rahman, Accountant Member**

ITA No.975/Hyd/2016
(Assessment Year: 2009-10)

M/s. EPE Process Filters & Vs Accumulators Pvt Ltd Hyderabad PAN:AAACE4496M (Appellant)		Dy. Commissioner of Income Tax, Circle 2(2) Hyderabad (Respondent)
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For Assessee :	Shri C. Suresh
For Revenue :	Shri Phani Raju, DR

Date of Hearing:	05.02.2019
Date of Pronouncement:	15.02.2019

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee's appeal for the A.Y 2009-10 against the order of the CIT (A)-5, Hyderabad, dated 29.03.2016.

2. Brief facts of the facts are that the assessee company, engaged in the business of manufacture of filters and accumulators, filed its return of income for the A.Y 2009-10 on 29.09.2009 admitting income of Rs.2,74,93,921/-. During the assessment proceedings u/s 143(3) of the Act, the assessee was required to produce its books of account. The assessee produced the same and after perusal and verification of the same, the AO found that the assessee has debited an amount of Rs.5,50,000/- towards purchase of 150 seasonal tickets of IPL cricket matches

held at Hyderabad. When the details were called for, the assessee filed a letter stating that the said tickets were distributed amongst its long standing customers and business associates and therefore, the said distribution served the purpose of promotion of business relations and goodwill among the customer base of the company and also in encouragement of sports, which is a part of the company's corporate social responsibility. Therefore, the assessee submitted that the expenditure satisfies all the conditions stipulated u/s 37(1) of the I.T. Act and should be allowed as such.

3. However, the AO was not convinced with the assessee's contentions and held that the assessee failed to produce any cogent evidence that the tickets were distributed amongst its business related persons. Holding that it is necessary for the assessee to support his claim for deduction u/s 37(1) of the Act, for the failure of the assessee to furnish any details, the AO disallowed the same and brought it to tax. Aggrieved, assessee preferred an appeal before the CIT (A), who confirmed the order of the AO holding it to be application of income and not business expenditure. Aggrieved by the order of the CIT (A), the assessee is in appeal before us by raising the following grounds of appeal:

"1. The Learned Commissioner of Income Tax, Appeals-5 failed to note that the expenditure of Rs. 5,50,000 incurred by the Appellant Company has been incurred as a matter of commercial expediency, to preserve and promote good business relations and goodwill among long standing business customers and associates and thus, has been incurred wholly and exclusively for the purposes of business of the Appellant Company.

2. The Learned Commissioner of Income Tax Appeals-V failed to note that during the Assessment proceedings, the Learned Assessing Officer, Circle 2(2), Hyderabad neither called for nor afforded an opportunity to the Appellant Company to adduce evidence in support of the claim of expenditure of the sum of Rs. 5,50,000 in respect of the IPL cricket matches. Given this fact, the Learned Commissioner of Income Tax, Appeals-V erred in not holding that the Assessing Officer is in error in stating that the Appellant Company had not adduced the requisite evidence.

3. The Learned Commissioner of Income Tax Appeals-V failed to note that the expenditure of Rs. 5,50,000 satisfies all the conditions of allowability stipulated u/s 37(1) and hence, the expenditure is allowable”.

4. While the learned Counsel for the assessee reiterated the submissions made before the authorities below, the learned DR supported the orders of the authorities below.

5. Having regard to the rival contentions and the material on record, we find that the assessee's submissions in support of its claim u/s 37 of the Act are that it has purchased the IPL cricket match tickets to distribute them amongst its long standing customers to garner their goodwill and improve its business relations and therefore, it is its business expenditure. According to us, this is a plausible and acceptable submission. This is akin to distribution of gifts or articles on special occasions to the customers and such expenditure has been held to be business expenditure. Further, in reply to Revenue's contention that the assessee has failed to produce any evidence in support of its contention, the learned Counsel for the assessee has filed a list of the customers amongst whom the IPL Cricket match tickets have

been distributed. The learned DR opposed the admission of this evidence at this stage and submitted that, if the Tribunal were to consider the same, then the said evidence should be remanded to the file of the AO. This list was admittedly not produced before any of the authorities below. Therefore, we treat it as additional evidence and admit the same and remand the issue to the file of the AO to verify whether these parties were the customers of the assessee and whether they were given the alleged IPL seasonal tickets.

6. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 15th February, 2019.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 15th February, 2019.

Vinodan/sps

Copy to:

- 1 M/s.Sekhar & Suresh, C.As, 133/4 Rashtrapathi Road, Secunderabad 500003
- 2 Dy. CIT, Circle 2(2) Signature Towers, Kondapur, Hyderabad
- 3 CIT (A)-5 Hyderabad
- 4 Pr. CIT – 5 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order