

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'B' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI K.N. CHARY, JUDICIAL MEMBER

ITA No. 3664/DEL/2015
[Assessment Year: 2011-12]

M/s G.K. Dairy & Milk Products Pvt Ltd.
B -5, Pragati Chambers, Ranjit Nagar
New Delhi

Vs. The Addl. C.I.T
Range - 12
New Delhi

PAN: AAACG 3118 J

[Appellant]

[Respondent]

Date of Hearing : 16.05.2019
Date of Pronouncement : 16.05.2019

Assessee by : Shri Garvit Batra, CA.

Revenue by : Shri Abhishek Kumar, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 4, New Delhi dated 31.03.2015 pertaining to assessment year 2011-12.

2. The grievance raised by the assessee is two-fold, viz,
 - (i) relates to disallowance u/s 40(a)(ia) of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'] for alleged non-deduction of TDS on interest payment to Kotak Mahindra Bank;
 - (ii) disallowance of Rs. 4,61,558/- made by the Assessing Officer for prior period expenses.

3. In so far as Ground No. 1 is concerned, the Id. AR furnished a certificate of the Accountant under first proviso to section 201(1) of the Act. It is the say of the Id. AR that the payee, i.e. Kotak Mahindra Bank has shown income in its return of income and hence, as per decisions of various High Courts and Tribunal, the disallowance should be deleted.

4. We have gone through the certificate of the accountant. We restore this issue to the file of the Assessing Officer. The Assessing Officer is directed to verify the certificate and decide the issue as per the provisions of law. Ground No. 1 is allowed for statistical purposes.

5. Facts relating to Ground No. 2 are that during the course of scrutiny assessment proceedings, the Assessing Officer noticed that the auditors of the appellant have observed that prior period expenses amounting to Rs. 4,61,558/- have been reported and not disallowed in the return of income. The assessee was asked to explain why the same should not be disallowed.

6. In its reply dated 07.02.2014, the assessee contended that since the assessee is having business operations from several places, it was not possible to account for the whole expenditure incurred at all business places and pertaining to a particular year in said particular year. It was also contended that sometimes, the bills were not received from employees at the end of the year regarding expenditure incurred by them or it may be the case where the supplier has not sent the bill. Therefore, such expenditure should not be accounted for in the year of service received by the assessee company.

7. The explanation of the assessee did not find any favour with the Assessing Officer. The Assessing Officer was of the opinion that as regards the claim of expenditure, the onus is on the assessee to establish with necessary documentary evidence that such expenses have been incurred wholly and exclusively for earning business income of the assessee for the year under consideration. On receiving no plausible reply, the Assessing Officer disallowed Rs. 4,61,558/-.

8. Aggrieved, the assessee carried the matter before the CIT(A) but without any success.

9. Before us, the ld. AR reiterated what has been stated before the lower authorities, but could not substantiate his claim.

10. Per contra, the ld. DR strongly supported the findings of the CIT(A).

11. We have given a thoughtful consideration to the orders of the authorities below. There is no dispute that the auditors have qualified the report by observing that prior

period expenses amounting to Rs. 4,61,558/- has been charged to the profit and loss account. Even if the contention of the assessee is to be accepted that the bills are sometimes received at a later date, then also the assessee has not demonstrated by bringing such bills which were received after the end of the financial year, nor there is any evidence brought on record to suggest that though the expenditure related to earlier year, but the liability crystallized during the year under consideration. In that view of the matter, we are of the considered opinion that such addition cannot be deleted. We, accordingly, confirm the addition of Rs. 4,61,558/-. Ground No. 2 is dismissed.

13. In the result, the appeal filed by the assessee in ITA No. 3664/DEL/2015 is partly allowed.

The order is pronounced in the open court on 16.05.2019.

Sd/-
[K.N. CHARY]
JUDICIAL MEMBER

sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Dated: 16th May, 2019.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar
ITAT, New Delhi

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