

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH 'C'**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI RIFAUR RAHMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.2314/Ahd/2017

निर्धारण वर्ष/Asstt. Year: 2013-14

DCIT, Cir.1(3) Ahmedabad.	Vs.	Smt.Neeta Seth 4,5,6 KB Commercial Centre Nr. Dinbai Tower Laldarwaja Ahmedabad 380 001. PAN : AEQPS 9091 H
------------------------------	-----	--

अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
------------------------	--------------------------

Revenue by :	Shri L.P. Jain, Sr.DR
Assessee by :	Ms.Urvashi Shodhan, AR

सुनवाई की तारीख/Date of Hearing : 28/06/2019

घोषणा की तारीख/Date of Pronouncement: 15/07/2019

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

Revenue is in appeal before the Tribunal against order of the Id.CIT(A)-10, Ahmedabad dated 9.8.2017 passed for the Asstt.Year 2013-14.

2. Revenue has taken three grounds of appeal, out of that Ground no.1 and 2 are substantial grounds of appeal. They read as under:

- i) *That the Id.CIT(A) has erred in law and on facts in deleting the addition made by the AO on account of Trade deposit of Rs.96,21,107/-*
- ii) *That the Id.CIT(A) has erred in law and on facts in deleting the addition made by the AO on account of advance received by the assessee of Rs.58,121/-"*

3. It has been brought to our notice that both the issues are covered in favour of the assessee by the order of the ITAT passed in the Asstt.Year 2010-11. The Id.CIT(A) has considered both these issues elaborately. Before adverting to the issue, we would like to note of the finding recorded by the CIT(A), which reads as under:

"1. The submissions made by the appellant, the material available on record as well as the assessment order passed by the AO were perused and considered. The first effective ground of appeal is against the additions of Rs. 96.21.107/- made by the Assessing Officer considering the trade deposits as revenue receipts. The appellant contended that this issue has been decided by the Hon'ble IT AT, "B" Bench, Ahmedabad, vide order dated 09/08/2016 in the appellant's own case for A.Y. 2010-11 in her favour. The operative para of the Hon'ble ITAT's order is reproduced as under:-

"5. We have heard the rival submissions, perused the material available on record and gone through the orders of the authorities below. The issue in the present case is with respect to the considering the trade deposits received by the assessee as the income of assessee. We find that the Id. CIT(A) while deleting the addition has noted that assessee is carrying on the business sales through Authorised Representative Dealers (ARDs) appointed by the assessee and Sales Service Providers (SSPs) appointed by Hero Motors Ltd. Since assessee's vehicles are kept with ARDs and SSPs for display, test drive, etc., trade deposits are received from them by the assessee by way of security deposits. The Id. CIT(A) while deleting the addition has given a finding , that as and when the sales take place through

ARDs and SSPs, the sale proceeds a/e accounted as income by the assessee and this method of accounting has been consistently followed by the assessee and has also been accepted by the Revenue in the i scrutiny proceedings. He has further- noted that during the year under consideration assessee had received trade deposits of Rs. 35.5 lacs and has repaid Rs. 26 lacs out of it and in effect the net trade received by the assessee during the year was only to the tune of Rs. 9.5 lacs. Under these circumstances, Id. CIT(A) had deleted the addition. Before us, Revenue has not placed any material to controvert the findings of Id. CIT(A). In view of the aforesaid facts, we see no reason to interfere with the order of Id. CIT(A) and this ground of Revenue is dismissed."

4.1 I As mentioned above, the issue has been decided in favour of the appellant in her own case for A.Y. 2010-11 by the Hon'ble jurisdictional ITAT, Ahmedabad. Therefore, the additions made by the A.O are deleted. This ground of appeal is allowed.

5. The second ground of appeal is against the addition of Rs. 58,121/- made by the A.O by considering the advance receipts from customers and sales and worked out GP @ 5.43% on the sales. The appellant contended that this advance receipts have been shown as sales in the next financial year. Therefore, the additions made by the A.O are not justified. On going through the facts of the case, the contention of the appellant is found factually correct. Hence addition of Rs. 58,121/- made by the Assessing Officer is deleted. This ground of appeal is allowed."

4. With the assistance of the Id.representatives, we have gone through the record carefully. As far as first issue is concerned, we find that it is squarely covered in favour of the assessee by the order of the ITAT passed in her own case for the Asstt.Year 2010-11. Copy of that order has been placed on record as discernible from the discussion extracted (supra). The assessee has been carrying on the business through authorized representative

dealers. In order to provide them vehicles for display and test driving, it used to take security deposits. Whether those trade deposits are to be considered as part of sale or not and ought to be brought to tax, was the issue involved in earlier year, wherein it has been held that advance taken in the shape of trade deposits was not to be treated as revenue receipts. Similarly, with regard to second issue, the Id.CIT(A) has observed that these advance receipts from customers have been recognized as sale by the assessee, hence, no addition would justify on that count. After going through well reasoned order of the Id.CIT(A) we do not find any merit in this appeal of the Revenue. It is dismissed.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced in the Court on 15th July, 2019.

Sd/-
(RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER