

आयकर अपीलिय अधिकरण "ए" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.401/PUN/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Income Tax Officer,
Ward – 1(3), Nashik

.....अपीलार्थी / Appellant

बनाम / V/s.

Sinnar Taluka Sahakari Dudh Utpadak
and Prakriya Sangh Maryadit,
Sahakar Bhavan, Shivaji Chowk,
Sinnar

PAN : AADAS3474Q

.....प्रत्यर्थी / Respondent

Assessee by : None/Written Submission
Revenue by : Shri N. Ashok Babu

सुनवाई की तारीख / Date of Hearing : 17-07-2019

घोषणा की तारीख / Date of Pronouncement : 01-08-2019

आदेश / ORDER

PER VIKAS AWASTHY, JM :

This appeal has been filed by the Revenue against the order of Commissioner of Income Tax (Appeals)-1, Nashik dated 05-12-2016 for the assessment year 2013-14.

2. The grounds of appeal by Revenue assailing the order of Commissioner of Income Tax (Appeals) are :

- “1. Whether on the facts and in the circumstances of the case, the Ld.CIT(A)-1, Nasik was justified in deleting the addition of Rs.1,25,25,148/- made u/s 40(a)(ia) of the Income Tax Act, 1961 as the assessee made sanstha vyavasthapan charges (commission Payments Rs.1,15,29,968/-) and Dudh Vikri Partichi Commission (Milk Sales Commission payable Rs.9,95,180/-) without deducting TDS as per the provisions of section 194H of the Income Tax Act 1961.
2. Whether on the facts and in the circumstances of the case, the Ld. CIT(A)-I, Nasik was justified to hold that the relation of the assessee and other milk societies are principal to principal basis, instead it was principal to agent basis, while dealing commission payment to other societies.
3. The order of the CIT(A) may be vacated and that of the Assessing Officer may be restored.
4. The appellant crave leave to add, alter, or delete any ground of appeal.”

3. None appeared to represent the assessee. However, written submissions have been filed on behalf of assessee. A perusal of written submissions reveal that the issue raised in the present appeal by the Revenue is identical to the one raised in ITA No. 2482/PUN/2016 for assessment year 2012-13 by the Revenue in assessee's own case. The issue was decided against the Department by the Co-ordinate Bench vide order dated 03-08-2018. Identical issue was raised in the assessment years 2009-10, 2010-11 and 2011-12 by the Department in ITA Nos. 1553/PN/2013, 1706/PN/2014 and 1393/PUN/2015 for the respective assessment years. The Tribunal has been consistently deciding this issue against the Revenue. The Department filed appeal before the Hon'ble Bombay High Court in Income Tax Appeal No. 161 of 2015 against the order of Tribunal in ITA No. 1553/PN/2013 dated 28-05-2014 for the assessment year 2009-10. The said appeal of Department was dismissed by the Hon'ble High Court vide order dated 01-03-2016 on account of low tax. Since, the issue in appeal is recurring in nature and no material has been placed before us to show any difference in the facts and transaction

involved in the assessment year under appeal, we find no reason to take a view different from the one already taken by the Co-ordinate Benches. Following the decision of Co-ordinate Bench in the preceding assessment years in assessee's own case, the ground raised by the Revenue is dismissed for the similar reasons.

4. In the result, the appeal by the Revenue is dismissed.

Order pronounced on Thursday, the 01st day of August, 2019.

Sd/-	Sd/-
(डी. करुणाकरा राव/D. Karunakara Rao)	(विकास अवस्थी / Vikas Awasthy)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 01st August, 2019
RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-I, Nashik
4. The Pr. Commissioner of Income Tax-1, Nashik
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति // True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune