

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**I.T.A. No.5879/DEL/2016
Assessment Year: 2012-13**

**Nagesh Knitwears P. Ltd., vs DCIT, Circle 18(1),
15/50, Old Rajinder Nagar, New Delhi.
New Delhi.
PAN: AAACN2140D**

(Appellant)

(Respondent)

**Assessee by: None
Department by: Ms Rinku Singh, Sr.DR**

**Date of Hearing: 29.8.2019
Date of Pronouncement: 20.9.2019**

ORDER

PER K. NARASIMHA CHARY, JM

Challenging the order dated 3.10.2016 of the learned Commissioner of Income-tax (Appeals)-33, New Delhi {for short "Learned CIT(A)"} passed in Appeal No.2734/16-17, assessee preferred this appeal.

2. Brief facts are that the assessee is engaged in the manufacturing and export of woollen, cotton and blended hosiery knitwear. For the Asstt. Year 2012-13 they have filed their return of income on 29.9.2012 declaring an income of Rs.1,20,90, 150/-. During the course of assessment proceedings, ld. AO observed from the profit and loss account that the assessee company had debited an amount of Rs.48,73,791/- on account of

rebate and discount. Assessee was required to furnish the complete details in respect of the said rebate and discount, assessee filed ledger account of Rs.4,78,611/- in respect of rebate and discount only and another ledger was in respect of the claim paid to foreign parties at Rs.44,08,788/- and since the assessee failed to substantiate the claim except filing the ledger account which is not enough proof, Id. AO added the total sum of Rs.48,73,791/- under the head 'Rebate and discount'.

3. Assessee preferred appeal. Id. CIT(A) during the course of his order observed that the disallowance of rebate and discount had two components, namely, Rs.44,08,788/- in respect of export sales amounting to Rs.34.53 crores and the rebate of Rs.4,65,003/- in respect of domestic sales amounting to Rs.15.26 crores. On a perusal of the bank certificates of export and realization from which the difference between bill amount and realized amount was verified, Id. CIT(A) directed the deletion of Rs.44,08,758/-. In respect of Rs.4,65,003/- relating to domestic sale, Id. CIT(A) observed that though the assessee was asked to produce the books of accounts, they failed to produce the same. So also no vouchers were produced. Id. CIT(A), therefore, confirmed the disallowance to the tune of Rs.4,65,003/-.

4. Aggrieved by the order of the Id. CIT(A) by sustaining the addition to the tune of Rs.4,65,003/-, assessee preferred the appeal. It is the argument of the Id. AR that the sole ground for disallowance by the AO and sustaining thereof by the Id. CIT(A) is that no vouchers have been produced before the authorities in respect of this amount. It is submitted by the Id. AR that the authorities below should have noted the fact that the assessee is maintaining the regular books of accounts which are

audited. He further submitted that in respect of the earlier year and subsequent assessment years the rebate and discount in respect of the domestic sales constituted in the same range as all these years and having accepted the same, the authorities below committed error in disallowing it for this year. He produced copies of the assessment orders for the AYs 2013-14 to 2015-16.

5. Per contra, it is the submission on behalf of the Id. DR that sufficient opportunity was given by the authorities below to the assessee to produce the books of accounts and vouchers and other evidences in respect of the claim but the assessee failed to file it and, therefore, the authorities below are justified in disallowing and sustaining the same.

6. We have gone through the record in the light of the submissions made on either side. In so far as the merits of the case are concerned, it is an admitted fact out of the total disallowance of Rs.48,73,791/-, Id. CIT(A) thought it fit to delete the addition to the tune of Rs.44,08,788/- in respect of export sales amounting to Rs.30.45 crores after verification of the bank certificates of export and realization. However, in respect of the balance amount of Rs.4,65,003/- relating to the domestic sales on the ground of non production of vouchers, it was disallowed.

7. There is no denial of the averments made on behalf of the assessee that for the Asstt. Years 2008-09 to 2011-12, the domestic sales were Rs.7.62 crores, Rs.8.09 crores, Rs.9.82 crores and Rs.12.27 crores wherein the rebate and discount was Rs.1.03 lacs, Rs.1.58 lacs, Rs.1.99 lacs and Rs.3 lacs constituting 0.14%, 0.20%, 0.20% and 0.24% respectively. For all these years, the assessment was made u/s 143(3) of the Act and no

disallowance was made in respect of these years while passing the scrutiny assessment orders.

8. The copies of orders for the Asstt. Years 2013-14, 2014-15 and 2015-16 are produced and it is submitted that for the Asstt. Years 2013-14 the sales were Rs.18.07 crores and rebate and discount is about Rs.12.07 lacs constituting 0.67% and the same was accepted by the Id. AO u/s 143(3) of the Act. Further, it is submitted that in respect of the Asstt. Years 2014-15, there was a disallowance to the tune of Rs.3,09,249/- and Rs.3,59,320/- respectively but relief was granted by the Id. CIT(A) in appeal.

9. All these things would show that the amount of rebate and discount in respect of domestic sales is varying between 0.4% and 0.67%. It is, therefore, clear that the rebate and discount for the Asstt. Year 2012-13 by 0.30% is fitting in the order of things and there is nothing abnormal. Having regard to this factual matrix, we are of the considered opinion that there is no justification for the disallowance and the same is liable to be deleted. We direct the deletion of the same.

10. In the result, appeal of the assessee is allowed.

Order Pronounced in the open court on 20th September, 2019.

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

sd/-

**(K.NARASIMHACHARY)
JUDICIAL MEMBER**

Dated: 20th September, 2019

VJ

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

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