

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'D' : NEW DELHI)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.1663/Del./2016  
(ASSESSMENT YEAR : 2012-13)**

M/s. Sanspareils Greenlands Pvt. Ltd., vs. ACIT, Circle 2,  
C/o J.M. Chadha & Chadha, Meerut.  
299, P.L. Sharma Road,  
Meerut.

**(PAN : AACCS2788N)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Premjit S. Kashyap, CA  
REVENUE BY : Dr. Vijay Kumar Chadha, Senior DR

Date of Hearing : 26.09.2019  
Date of Order : 07.10.2019

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant, M/s. Sanspareils Greenlands Pvt. Ltd. (hereinafter referred to as the 'assessee') by filing the present appeal sought to set aside the impugned order dated 27.01.2016 passed by the Commissioner of Income - tax (Appeals), Meerut qua the assessment year 2012-13 on the grounds inter alia that :-

*“1. That on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) is not justified in sustaining the disallowance of Rs.65,83,370/- on account of Sales Promotion and disallowance of Rs.16,49,043/- on account of cost of goods for free replacement.*

*2. That on the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) is further not justified in sustaining the disallowance of Rs.65,44,633/- on account of discount to Indian customers.”*

2. Briefly stated the facts necessary for adjudication of the issue at hand are : Assessee is into the business of manufacture, purchase, sale and export of sports goods. During assessment proceedings, Assessing Officer (AO) noticed that the assessee has not produced any evidence qua the cost of goods for sales promotion and cost of goods replaced to the tune of Rs.1,31,66,740/- and Rs.32,66,827/- respectively and reached the conclusion that as against the goods replaced in the preceding years worth of Rs. 19,53,457/-, assessee replaced cost qua the year under assessment to the tune of Rs.32,98,086/- which is raised by 68% as compared to the last year whereas sales have been increased to the tune of 19% only and also proceeded to hold that in the preceding year, cost of goods for sale promotion was Rs.64,81,403/- but during the year under assessment it was Rs.1,31,66,740/- which is increased by 104% and consequently allowed 50% of the cost of sales promotion and cost replaced only and thereby made an addition of Rs.82,32,413/- (Rs.16,49,043/- + Rs.65,83,370/-).

3. AO also noticed that the assessee has debited discount to the Indian customers to the tune of Rs.1,69,72,985/- in comparison to Rs.76,67,906/- in the preceding year with a steep rise of 121% whereas increase in domestic sales is of 36% only and proceeded to allow the

increase in depreciation @ 36% increase and thereby made an addition of Rs.65,44,633/-.

4. Assessee carried the matter by way of appeal before the Id. CIT (A) who has confirmed the additions by partly allowing the appeal. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeal.

5. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Undisputedly, the AO has disallowed all the aforesaid expenses on ad hoc basis. It is also not in dispute that neither in the preceding years nor in the succeeding years, such expenses claimed by the assessee have been disallowed by the Revenue.

7. At the very outset, Id. AR for the assessee contended that all the necessary documents qua allowances claimed have been produced before the AO. AO as well as Id. CIT (A) have time and again mentioned in the order that the additions are being made on account of non-furnishing of the requisite documentary evidence to substantiate the sale promotion, goods replaced and discount given to the Indian customers. For perusal of the Bench, assessee produced plethora of documents to support his contention which are available at pages 45 to 193 of the paper book.

8. In view of the matter, we are of the considered view that when the assessee has produced requisite documentary evidence before the AO, the addition was not required to be made on the ad hoc basis rather it should have been made, if any, on the basis of actual facts of the case. In these circumstances, we deem it necessary to remand the case back to the AO to decide afresh in the light of the documents relied upon by the assessee as well as in the light of the facts that such allowances claimed by the assessee have been allowed by the Revenue itself in the preceding as well as succeeding years. Needless to say that the AO shall provide adequate opportunity of being heard to the assessee to pass the order afresh. Consequently, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in open court on this 7<sup>th</sup> day of October, 2019.**

**Sd/-  
(N.K. BILLAIYA)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 7<sup>th</sup> day of October, 2019  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Meerut.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**