

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K", MUMBAI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI AMARJIT SINGH, JUDICIAL MEMBER**

ITA NOS. 4274 & 6782/MUM/2014 : A.Ys : 2005-06 & 2006-07

General Mills India Pvt. Ltd.,
902, Ventura, Hiranandani Business
Park, Hiranandani Gardens, Powai,
Mumbai 400 076.

PAN : AAACG1773B (Appellant)

Vs. Addl. Commissioner of
Income Tax, Range-10(2),
Mumbai (Respondent)

**Appellant by : Shri M.P. Lohia &
Shri Hemen Chandaria**

Respondent by : Shri Anand Mohan

Date of Hearing : 28/08/2019

Date of Pronouncement : 25/11/2019

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER

These are appeals by the assessee for assessment years 2005-06 and 2006-07 respectively. Since the issues in both the assessment years are common and connected, the appeals are consolidated and disposed of together for the sake of convenience.

ITA No. 4274/Mum/2014 (A.Y : 2005-06) :

2. In this appeal, assessee has raised various grounds which relate to the additions on account of scientific research, bad debt, bonus, leave encashment, advertisement expenses, plant and machinery, foreign travel expenses.

3. In respect of ground no. 1, assessee submits that there is denial of principles of natural justice inasmuch as the learned CIT(A) has erred in not accepting the additional evidences submitted by the assessee during the course of appellate proceedings. Pursuant to the assessment by the Assessing Officer, assessee raised ground before the learned CIT(A) that the Assessing Officer has erred in not giving adequate opportunity to the assessee to put forth its views and submit documents/information and has concluded the assessment in an improper manner. Considering the submissions of the assessee in this regard, the learned CIT(A) obtained a Remand report. He noted the Assessing Officer's response that number of opportunities was given to the assessee who has not complied. The learned CIT(A) proceeded to dismiss the admission of additional evidences. Aggrieved, assessee is in appeal before us.

4. Upon hearing both the counsels and perusing the records, in our considered opinion, the interests of justice would be served if the additional evidences submitted by the assessee is accepted and the issue remitted to the file of the Assessing Officer. The learned counsel for the assessee has given an undertaking that he shall be appearing before the Assessing Officer and comply with all the requirements within two months from the date of our

order. Accordingly, we direct the Assessing Officer to consider the issue afresh after considering the additional evidences submitted by the assessee.

5. All the grounds raised on merits are to be considered in the light of additional evidences being submitted except grounds related to plant and machinery depreciation. Hence, we are not dealing with the merits of other issues raised. As regards depreciation of Rs.93,36,329/- claimed on plant and machinery lying at the premises of assessee's co-packer, it is the contention of the learned counsel for the assessee that the said issue is covered in favour of the assessee. We direct the Assessing Officer to consider this issue in the light of submissions of assessee in this regard.

6. In the result, appeal of the assessee is allowed for statistical purposes.

ITA No. 6782/Mum/2014 (A.Y : 2006-07) :

7. In this appeal, the additions have been sustained by the learned CIT(A) by referring to the CIT(A)'s order in assessment year 2005-06 in this regard. We have heard both the counsels and perused the records. As we have remitted the various issues to the file of Assessing Officer in appeal for assessment year 2005-06, the basis of CIT(A) upholding the action of Assessing Officer in this year does not survive. Hence, we direct the Assessing Officer to consider the issue afresh after passing order for assessment year 2005-06 pursuant to the additional evidences that may be submitted by the assessee. We make it clear that we are not adjudicating about the merits of the case in any manner whatsoever.

8. In the result, both the appeals by the assessee stand allowed for statistical purposes.

Order pronounced in the open court on 25th November, 2019.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai, Date : 25th November, 2019

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "K" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai