

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, AHMEDABAD**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**  
**& SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1763/Ahd/2016  
(निर्धारण वर्ष / Assessment Year : 2012-13)

<b>DCIT</b> Circle 1(1)(1), 'A' Wing, Room No.309, 3 <sup>rd</sup> Floor, Pratyaksh Kar Bhavan, Ambawadi, Ahmedabad 380015	<b>बनाम/</b> Vs.	<b>Anil Bioplus Ltd.</b> Anil Starch Premises, Anil Road, Naroda, Ahmedabad 380025
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCA6331J		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Vinod Tanwani, Sr.DR
प्रत्यर्थी की ओर से / Respondent by :	None

सुनवाई की तारीख / Date of Hearing	18/02/2020
घोषणा की तारीख /Date of Pronouncement	20/02/2020

**आदेश/ORDER**

**PER PRADIP KUMAR KEDIA - AM:**

The captioned appeal has been filed at the instance of the Revenue against the order of the Commissioner of Income Tax (Appeals)-1, Ahmedabad ('CIT(A)' in short), dated 26.04.2016 arising in the assessment order dated 24.02.2015 passed by the Assessing Officer (AO) under s. 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

2. The Grounds of appeal filed by the Revenue reads as under:

*“(1) That the ld.CIT(A) has erred in law and on facts in deleting the addition of Rs.3,11,98,757/- made on account of disallowance of deduction u/s 80JJA of the I.T. Act.*

*(2) That the ld.CIT(A) has substantially erred in not appreciating the facts of the case that the assessee had purchased Feed EZ Plus, Feed, Barn, Maize and Gluten, which were not “Bio-degradable Waste” within the meaning of Section 80JJA.*

*(3) That the ld. CIT(A) has substantially erred in not considering the facts of the case that the assessee had not furnished any details like copy of bills, delivery challan etc. in order to prove the genuineness of purchase.”*

3. Identical dispute has been raised in the case of assessee in AY 2011-12 in ITA No. 902/Ahd/2016 order dated 30.01.2020 as well. The coordinate bench of Tribunal after taking detailed note of facts and circumstances of the case, has adjudicated the issue in favour of assessee and against the Revenue. The relevant operative para of the order of the Tribunal in ITA No. 902/Ahd/2016 (*supra*) reads as under:

*“9. We have carefully perused the assessment order of the AO and appellate order of CIT(A). The claim of deduction under s.80JJA of the Act on processing of biodegradable waste for generation of biofeeds (biological agents) is in question. The CIT(A) has found merit in the claim of deduction on principles. The CIT(A) has taken note of the submissions of the assessee towards process of production of biofeeds in the nature of biological agents from biodegradable waste, ingredients purchased for processing and treating waste, details of machinery used in production, details of purchase and sale made from various parties etc. The CIT(A) found merit in the case of the assessee for eligibility of deduction under s.80JJA of the Act from on profits arising from activity of collection and processing of biodegradable waste in order to generate/manufacture biofeeds/biological agents which are essentially nutrition booster derived by a combination of various biological processes for the use in Animal Healthcare Industry. As per process adopted, unwanted waste are further treated through a series of biological process with the help of biotechnology to produce biofeeds which are rich in energy values. Biofeeds are stated to help in improving the digestion in animals and poultry and the biological agents present in biofeeds are stated to be used to replace chemical based antibiotics in animal and poultry. On these facts, the CIT(A) has accepted the claim of the assessee under s. 80JJA of the Act on first principle but re-allocated a part of expenditure as considered attributable to the activity derived from the business of collecting and processing or treating biodegradable waste for production of biological agents. Owing to reallocation of expenses, the CIT(A) restricted the claim to the extent of Rs.1.54 Crores as against the claim of the assessee amounting to Rs.1.91 Crore. We find considerable substance in the process of reasoning adopted by the CIT(A) while concluding the*

*issue in favour of the assessee. The CIT(A), in our view, has dealt with the issue objectively and hence does not warrant interference. The Revenue has failed to rebut the findings of the CIT(A) in any assertive manner. We thus decline to interfere.”*

4. The issue is thus no longer *res integra* and already adjudicated in favour of the assessee in AY 2011-12 as well. In consonance with the view already taken in the identical facts, we decline to interfere with the order of the CIT(A).

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

**This Order pronounced in Open Court on 20/02/2020**

Sd/-  
(MAHAVIR PRASAD)  
JUDICIAL MEMBER  
Ahmedabad: Dated 20/02/2020

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

True Copy

*S. K. SINHA*

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /  
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण, अहमदाबाद ।