

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH**

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

[Through Virtual Court]

**ITA. No: 521/Ahd/2017
(Assessment Years: 2013-14)**

The DCIT, Anand Circle, Anands		M/s. Gujarat Co-operative Milk Marketing Federation Ltd., Post Box No. 10, Amul Dairy Road, Anand-388001
(Appellant)		PAN No. AAAAG5588Q
		(Respondent)

**Appellant by : Shri Vinod Tanwani, CIT/DR
Respondent by : Shri Sunil Talati, A.R.**

(आदेश)/ORDER

Date of hearing : 11-02-2021
Date of Pronouncement : 30-04-2021

PER MAHAVIR PRASAD, J.M.

1. This appeal filed by the Revenue is directed against the order of the Commissioner of Income Tax (‘hereinafter called CIT(A)’) order no. CAB/4-490/2015-16 order dated 25/10/2016 arising out of assessment order dated 08/01/2016. Revenue has taken following grounds of appeal:

1. *On the facts and in the circumstances of the case and in law, the Ld. C.LT.(A) erred in deleting the addition of 12,83,66,000/- on account of Co-operative and Breed Development expenses which included breed improvement expenses without appreciating the fact such expenditure being not connected with ordinary course of business of the assessee are not revenue in nature and therefore disallowable u/s. 37(1) of the Act.*
2. *On the facts and in the circumstances of the case and in law, the Ld. C.I.T.(A) erred in deleting the addition of Rs. 12,83,66,000/- on account of Co-operative and Breed Development expenses which included breed improvement expenses without appreciating that expenditure incurred on cooperative and breed development resulted in enduring benefits of long lasting in nature and hence the same are capital in nature*
3. *On the facts and in the circumstances of the case and in law, the Ld. C.I.T.(A) erred in deleting the addition on addition of Rs. 12,83,66,000/- on account of Co-operative and Breed Development expenses, ignoring the decision of Hon'ble Supreme Court in the case of Assam Bengal Cement Co. Ltd. vs. CIT (1955) 56 ITR 52 (SC) relied upon by the A.O. in the assessment order.*
4. *The appellant craves leave to add, to amend or alter the above grounds as may be deemed necessary.*

Relief claimed in appeal.

The order of the CIT(A) on the issues raised in the aforesaid Grounds be set aside and that of the Assessing Officer be restored.

2. Brief facts of the case are that the appellant is a Co-operative society and derives income from business and profession and other sources. The assessee co-operative society is also engaged in marketing and manufacturing of milk and milk products and Polythene Packing Films running its business under the name and style "Gujarat Co.op. Milk Marketing Federation Ltd."
3. During the year under consideration, it was found that the assessee has debited Rs. 1,283.66 lacs towards Co-operative and Breed Development Expenses which include the breed improvement expenses. It was found that the expenditure of Rs. 1,283.66 lacs towards Co-operative and Breed, Development Expenses is of capital expenditure in nature and therefore, not allowable as revenue expenditure as per the provisions of the Act. And Ld. A.O. disallowed an amount of Rs. 1,283.66 lacs

debited to Profit and Loss account towards Co-operative and Breed Development Expenses.

4. Thereafter, assessee preferred first statutory appeal before the Ld. CIT(A) who granted relief to the assessee on the ground that similar relief were granted to the assessee in assessment year 2009-10 and assessment year 2011-12. Therefore on the basis of consistency and issues were identical, Ld. CIT(A) granted relief to the assessee.
5. Now revenue has come before us against the order of Ld. CIT(A). Ld. D.R. relied on the order of the Assessing Officer.
6. On the other hand, assessee filed an order of Co-ordinate Bench wherein in similar facts and circumstances appeal of the Revenue was dismissed and operative portion of the ITA No. 2800/Ahd/2018 for A.Y. 2014-15 is reproduced here:

3. As per Ground Nos. 1.1 & 1.2, the Revenue seeks to challenge the action of the CIT(A) for disallowance of co-operative expenses including breed development expenses etc. As pointed out on behalf of the assessee, the issue is squarely covered in favour of the assessee in its own case in AY 2011-12 by the decision of the co-ordinate bench of same combination in ITA No. 3023/Ahd/2014 & Ors. dated 02.08.2018. The relevant operative para of the order of the Tribunal in ITA No.3023/Ahd/2014 concerning AY 2011-12 is reproduced hereunder:

"11. We have carefully considered the rival submissions. The controversy revolves around maintainability of breed improvement expenses as revenue expenditure. It is broadly the case of the assessee that it is an institution created by the milk producers themselves to safeguard their interest economically, socially as well as democratically. The expenses have been incurred to optimize the productivity and quality of the milk and milk products. For this purpose, the assessee has incurred expenses towards fertility improvement programme and has inter alia taken educational programme with the object of imparting education, training and information for development and strengthening the co-operative structure and thereby improving milk productivity. In the process to achieve such objects, the assessee has incurred expenditure to the tune of Rs.824.94 Lakhs which is in the nature of revenue expenditure to improve the quality and bring efficiency in production as well as to achieve unfettered supply. In this background, the CIT(A) observed that identical issue involved in preceding assessment years have been decided in favour

of the assessee by the predecessor CIT(A) and the claim of such expenditure was accepted as revenue expenditure. As noticed, the view taken by the CIT(A) has been endorsed by the co-ordinate bench of ITAT in ITA No.3037/Ahd/2010 & Ors. read with M.A. No. 07/Ahd/2017 & Ors. (supra). In consonance with the order of the co-ordinate bench for earlier assessment years in own case of Assessee in own case of Assessee, we do not see any warrant to interfere with the order of the CIT(A)."

4. In parity with the conclusion drawn in the earlier assessment years, we do not see any infirmity in the order of the CIT(A) holding such expenditure in the nature of allowable revenue expenditure. We thus decline to interfere.

5. Ground Nos. 1.1 & 1.2 of the Revenue's appeal are dismissed.

7. Since Co-ordinate Bench has dismissed the appeal of the Revenue on similar facts and circumstances in assessee's own case. Thus, in parity with the said judgment, we dismiss the appeal of the Revenue.

8. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in Open Court on 30 - 04- 2021

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 30/04/2021

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad