

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI R.S.SYAL, VP AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No. 2285/PUN/2017

निर्धारण वर्ष / Assessment Year : 2011-12

The Assistant Commissioner of Income Tax,  
Circle-11, Pune.

.....अपीलार्थी / Appellant

बनाम / V/s.

M/s.Hirschvogel Components India Pvt. Ltd.  
E-84, MIDC, Ranjangaon,  
Taluka-Shirur,  
Pune-412 209  
PAN : AACCH2536H

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishore Phadke

Revenue by : Shri Sudhendu Das

सुनवाई की तारीख / Date of Hearing : 28.06.2021

घोषणा की तारीख / Date of Pronouncement : 29.06.2021

**आदेश / ORDER**

**PER PARTHA SARATHI CHAUDHURY, JM:**

This appeal preferred by the Revenue emanates from the order of the Ld. CIT(Appeals)-13, Pune dated 19.07.2017 for the assessment year 2011-12 as per the following grounds of appeal on record :

*"1. The order of the Ld. CIT(A) is contrary to law and to the facts and circumstances of the case.*

*2. The Ld. CIT(A) erred on facts and circumstances of the case in directing the Assessing Officer to delete the addition of Rs.2,80,80,875/- made by the Assessing Officer on account of high material consumption*

*declared by the assessee, even though the assessee company failed to justify its contention that corroborative and cogent evidences.*

*3. For these and such other grounds as may be urged at the time of hearing, the order of the Ld. CIT(A) may be vacated and that of the AO be restored.*

*4. The appellant craves to add, amend, alter or delete any of the above ground of appeal during the course of appellate proceedings before the Hon'ble Tribunal."*

2. The solitary grievance of the Revenue is with regard to the deletion of addition of Rs.2,80,80,875/- by the Ld. CIT(Appeals) on account of high material consumption declared by the assessee as had been made by the Assessing Officer during assessment proceedings.

3. The brief facts in this case are that the assessee company is engaged in the business of manufacturing of hot, warm and cold forged parts and carry out subsequent machining operations. The assessee company was incorporated as joint venture entity of Kalyani Group and Germany based Hirschvogel Group. It was submitted by the assessee that the commercial production of the company started on 1<sup>st</sup> September, 2010 i.e. in the year under consideration. The assessee's turnover during the year was Rs.2,67,08,621/- as against this, the assessee had claimed manufacturing expenditure of Rs.4,03,66,841/- and therefore, gross loss was shown at Rs.(-)1,36,58,220/- i.e. -269.68% of the sales. Similarly, the ratio of cost of material consumed to sales was also very high i.e. 97%.

4. It was observed by the Assessing Officer that there was a glaring difference in the manufacturing expenses to sales ratio for the two comparative assessment years i.e. A.Y. 2011-12 and A.Y.2012-13. For assessment year 2012-13, the manufacturing expenses were shown at Rs.15,14,99,477/-. Against the same, the sales of Rs.21,83,29,964/- were

shown. Whereas for the assessment year 2011-12, the manufacturing expenses were shown at Rs.4,03,66,841/- and the sales were shown at Rs.2,67,08,621/-. Thus, the percentage of manufacturing expenses to sales was 69.39% for the assessment year 2012-13 whereas for the assessment year 2011-12, it was 151%.

5. The assessee thereafter, made detailed written submissions before the Assessing Officer which are at Para 8.1 and 8.2 of the Assessing Officer's order. The Assessing Officer vide Para 9 of his order, had observed that the comparative information even after ignoring direct manufacturing cost, was still 97%. That at Para 9.1 of the Assessing Officer's order, the assessee in its submission has stated that there was an error in making excess provision of Rs.53,15,000/-. The cost of purchase of fixed assets in the subsequent year were provided by the assessee as consumables and debited to P & L account for the year ended 31<sup>st</sup> March, 2011. Thus, material cost as well as loss for the year ended 31.03.2011 has been inflated by the assessee by an amount of Rs.53,15,000/-.

6. Thereafter, at Para 9.2, the Assessing Officer categorically finds that the assessee had failed to justify its contention with corroborative and cogent evidences and therefore, the Assessing Officer had reduced the cost of material to 46%, taking average cost of material consumed for subsequent 3 years and the gross profit was taken at 54%. Therefore, gross profit was recomputed at Rs.1,44,22,655/- as against the gross loss claimed in the return of income at Rs.1,36,58,220/-. Thus, the differential amount of Rs.2,80,80,875/- was added back to the total income of the assessee and reduced from the loss claimed to be carried forward.

7. At the time of hearing, the Ld. Counsel for the assessee demonstrated that before the Ld. CIT(Appeals), at Page 12, Para 5.3, Note No.2, the assessee vide its submission has explained the provision entry in consumables amounting to Rs.53,15,000/-.

8. We find that the Ld. CIT(Appeals) has not given any specific findings regarding the observation made by the Assessing Officer at Para 9.1 vis-à-vis submission of the assessee before the Ld. CIT(Appeals) at Para 5.3, Note No.2 in the assessee's submission. That further, the Ld. CIT(Appeals) at Para 2.2.7 of his order has observed that the assessee before the Assessing Officer has not explained its loss properly and its material consumption ratio was also abnormally high. Thereafter, as per reasoning contained in his order, the Ld. CIT(Appeals) deleted the addition made by the Assessing Officer. However, we observe the submission of the assessee at Para 9.1 of the Assessing Officer's order wherein the assessee itself has stated that there was an error in making excess provision of Rs.53,15,000/- and the subsequent justification given by the assessee thereof, this issue requires factual verification. That further from the observation of the Ld. CIT(Appeal), he has also raised doubts regarding the claim of the assessee and that they were not properly explained before the Assessing Officer. We have observed in the open Court before the parties that the matter needs to be verified by conducting detailed enquiry and examination on facts.

9. In view thereof, we set aside the order of the Ld. CIT(Appeals) and restore the matter to the file of Assessing Officer to re-adjudicate the issue while complying with the principles of natural justice as indicated hereinabove.

10. In the result, **appeal of the Revenue is allowed for statistical purposes.**

Order pronounced on 29<sup>th</sup> day of June, 2021.

Sd/-  
**R.S.SYAL**  
**VICE PRESIDENT**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> June, 2021.  
SB

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-13, Pune.
4. The Pr. CIT-1, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,  
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	28.06.2021	Sr.PS/PS
2	Draft placed before author	28.06.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		