

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : D : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.927/Del/2017
Assessment Year: 2013-14

Kisan Sahkari Chini Mills Ltd.,
C/o S.P. Jain & Associates,
303-305, Bhanot House,
17, Yusaf Sarai Commercial
Complex,
New Delhi.

Vs. DCIT,
Circle Saharanpur,
Uttar Pradesh.

PAN: AAAAK0211G

(Appellant)

(Respondent)

Assessee by : Shri Anil Kumar Jain, Advocate
Revenue by : Shri Ajay Kumar, Sr. DR

Date of Hearing : 06.10.2021
Date of Pronouncement : 06.10.2021

ORDER

PER R.K. PANDA, AM:

This appeal filed by the assessee is directed against the order dated 6th October, 2016 of the CIT(A), Muzaffarnagar, relating to Assessment Year 2013-14.

2. The only effective ground of appeal raised by the assessee reads as under:-

öThe Id.CIT(A) has erred in confirming the disallowance of Rs.26,57,018/- as against addition of Rs.31,01,369/- made by assessing officer on account of Repair and Maintenance of Plant and Machinery on estimate basis.ö

3. Facts of the case, in brief, are that the assessee is a society registered under the UP Cooperative Society Act, 1965 and derives income from manufacturing of sugar. It filed its return of income declaring loss of Rs.30,83,33,515/- on 25th September, 2013. During the course of assessment proceedings, the AO observed that the assessee has claimed Repairs and maintenance of Plant & Machinery at Rs.3,10,13,690/-. However, neither any income from scrap nor any closing stock of scrap has been shown. Therefore, the AO held that this repair and maintenance of plant and machinery would generate some scrap and estimated the value of scrap generated out of items claimed for repair and maintenance @ 10% of the repair and maintenance of Plant & Machinery expenses and accordingly made addition of Rs.31,01,369/- being the value of scrap generated. While doing so, the AO relied on the decision of the CIT(A), Muzaffarnagar in the case of M/s The Ganga Kisan Sahkari Chinni Mills Ltd., Morna where under similar facts, where scrap generated out of repair and maintenance of plant & machinery was estimated @ 10%.

4. Before CIT(A), it was claimed that there was no question of generating any scrap out of the expenses for contract jobs in case of stores consumption. It was explained that when the scrap is generated out of stores consumption, the same is sold with the permission of District Magistrate after inviting tenders and sale of scrap is shown in the year of sale of scrap in the accounts. It was further explained that the scrap generated on the replacement of machine parts is of very

low amount because the value of scrap due to old parts is negligible as compared to the value of new parts replaced. It was accordingly argued that estimation of scrap @ 10% of the stores consumption is not justified. The decision of the Tribunal in the case of Kiccha Sugar Co. Ltd., vide ITA No.345/Del/2009, order dated 08th January, 2010 was brought to the notice of the CIT(A).

5. However, the Id.CIT(A) was not satisfied with the arguments advanced by the assessee and restricted the disallowance to Rs.26,57,018/- by observing as under:-

57. The facts of the case along with the submission of the appellant have been gone through. There is no doubt about the fact that the appellant is replacing parts of plant and machinery cost of which are being debited under the head repair/maintenance cost and it is resulting into generation of scrap. Though the appellant had stated that it is not showing the amount of scrap in its books of account in the year of generation but accounts for the same as sale in the year scrap generated is sold. This practice is being followed by the appellant since long. However, it is noted that the appellant is maintaining its account on mercantile basis. On this basis, valuation of inventory including scrap is mandatory in order to compute the correct profit under the head business. On similar facts, the Hon'ble ITAT, Delhi (supra) has held that the valuation of inventory is mandatory including by e-products [vide para 8 of the order (supra)]. Further on similar facts it has been held by the Ld. CIT(Appeals), Muzaffarnagar (supra) that it would be reasonable to estimate the value of inventory of scrap in such cases @ 10% of the cost of repair and maintenance debited to the profit & loss account. The submission of the appellant that it can make sale of scrap only after approval of the Federation Office/District Magistrate, has been considered. However, this sanction/approval is necessary for making sale of scrap. But in order to compute the true profit of the business it is mandatory to account for the value of inventory of the closing stock including scrap lying with the appellant at the close of the year. It has been further held by the Hon'ble ITAT, New Delhi (supra) (Para 8.2) that certain value has to be attributed as the cost of the bye-products. Further, the appellant has claimed that it has shown sales of scrap at Rs.615289/- during the year but has not made clear whether the said sale is out of scrap generated in past years or in the current year. Therefore, keeping in view these facts the value of scrap is estimated at 10% of Rs. 2657018/- (excluding cost of contract jobs which do not result in any scrap). Therefore, the addition made by the AO on this

account is restricted to Rs. 2657018/-and balance addition is hereby deleted.
Ground of appeal is partly allowed.ö

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

7. We have heard both the parties and considered the relevant material placed on record. We find, identical issue had come up before the Tribunal in assessee's own case in the immediately preceding assessment year. We find, the Tribunal, vide ITA No.4485/Del/2016, order dated 20th September, 2021, has decided the identical issue and deleted the addition by observing as under:-

ö7. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the Assessing Officer has disallowed these expenses only on the basis of estimated value of scrap at 10% without any proper finding and on proper basis. The addition is merely on a presumption basis. Therefore, the same is not sustainable in eyes of law. The CIT(A) also has observed that the District Magistrate's approval/sanction is necessary for making sale of scrap. Thus, the Assessing Officer as well as the CIT(A) was not correct in making the said addition on account of repair and maintenance of plant and machinery. The appeal of the assessee being ITA No. 4485/Del/2016 is allowed.ö

8. Since the facts of the instant case are identical to the facts decided by the Tribunal in assessee's own case in the immediately preceding assessment year, therefore, in absence of any contrary material brought to our notice against the decision of the Tribunal in assessee's own case cited (supra), we hold that the ld.CIT(A) was not justified in sustaining the addition of Rs.26,57,018/- out of the addition of Rs.31,01,369/- made by the AO on account of Repair and

maintenance of Plant & Machinery on estimation basis. The ground raised by the assessee is accordingly allowed.

9. In the result, the appeal filed by the assessee is allowed.

The decision was pronounced in the open court at the time of hearing itself, i.e., on 06.10.2021.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Dated: 06th October, 2021

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Asstt. Registrar, ITAT, New Delhi