

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'D' अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD
(Conducted through Virtual Court)
BEFORE SHRI RAJPAL YADAV, VICE-PRESIDENT
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER

ITA No.1092/Ahd/2019
निर्धारण वर्ष/ Asstt.Year : 2016-17

DCIT, Gandhinagar Circle Gandhinagar.	Vs.	M/s.Western Agri Seeds Ld. 316, Arawal Mall Opp: Bhagwat Vidyapeeth S.G. Highway Ahmedabad 380 060. PAN : AAACW 1478 P
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(Applicant)	(Responent)
Revenue by :	Shri S.N. Soparkar, Sr.Adv
Assessee by :	Shri Leena Lal, Sr.DR

सुनवाई की तारीख/Date of Hearing : 08/12/2021
घोषणा की तारीख /Date of Pronouncement: 14/12/2021

आदेश/ORDER

PER RAJPAL YADAV, VICE-PRESIDENT:

Revenue is in appeal before the Tribunal against order of the Id.CIT(A), Gandhinagar dated 26.4.2019 passed for the Asstt.Year 2016-17.

2. Revenue has taken four grounds of appeal. However, only one issue for our adjudication is that the Id.CIT(A) has erred in law and on facts in deleting the disallowance of rate difference and discount amounting to Rs.4,23,51,335/-.

3. Brief facts of the case are that the assessee is engaged in the business of manufacturing and trading of hybrid seeds. The assessee has filed its return of income declaring total income at

Rs.1,73,11,840/-. The case of the assessee was selected for scrutiny assessment and notice under section 143(2) was issued and served upon the assessee. In the assessment under section 143(3), the ld.AO in a very cryptic manner, without any discussion or deliberations on the subject issue, made additions of Rs.4,23,51,535/-. His short finding recorded in the assessment order reads as under:

“3..... In the assessment year 2010-10 to 2012-13 additions/ disallowances were made on account of other expenses/trade discount/rate difference above Rs.10 lacs. The CIT(A) deleted the additions for the AY 2010-11 to 2012-13, were in department has preferred appeal before the Hon’ble ITAT. The following the same steps and identical issues for the year under consideration, disallowance of Rs.42351335/- on account of rate difference and discount is to be disallowed and added to the total income of the assessee.”

4. In other words, the ld.AO simply based on his predecessor’s order for the earlier years, made the impugned additions. Aggrieved assessee preferred appeal before first appellate authority. The ld.CIT(A) found that similar issues arose in the earlier assessment years i.e. Asstt.Years 2010-11 to 2013-14, wherein such claims of the assessee were allowed and all such other additions/disallowance were deleted. Accordingly, following orders of earlier years’, the ld.CIT(A) deleted additions/disallowances in this year well. Now, Revenue is aggrieved, hence, before the Tribunal.

5. Before us, the ld.DR has nothing to argue except supporting the order of the ld.AO; while the ld.senior counsel for the assessee submitted that claim of the assessee on account of discount and rate difference was allowed right upto the Tribunal in respect of assessment years starting from 2010-11 to 2013-14. The ld.AO

without appreciating the fact of similar claim of the assessee in earlier years, blindly rejected claim of the assessee, which action is not justified. Therefore, it is submitted that claim of the assessee in this year as well may be allowed.

6. We have heard both the parties; we have also gone through earlier orders of the CIT(A) and also orders of the ITAT on this issues. Copies of respective orders of the ITAT are placed on record by the assessee. We have noticed that the assessee was consistently making the claim of discount and rate difference on the sale of seeds to its customers. Such claims though disallowed at the end of the AO, but the same were allowed by the CIT(A) and thereafter in appeal by the Revenue, order of the Id.CIT(A) was upheld by the Tribunal. Though the fate of earlier claim of the assessee was very much on record, the Id.AO has ritually rejected claim of the assessee year after year without making any logical end. It has time and again stated by the assessee, recorded by the Id.CIT(A) and taken note by the Tribunal that the assessee is giving discount/rate deduction to customers as per its business policy, which are supported by circulars issued from time to time. The entire payment has been reflected in the ledger account of various dealers and supported by the evidences. The ratio of discount to the turnover is very consistent from year 2008-09, which has been demonstrated before the lower authorities, so was the ratio of gross profit. We reproduce relevant portion of the CIT(A)'s order in this behalf as under:

“4.2 I have considered the facts of the case, assessment order and submission made by the appellant The AO in the assessment order has relied on the assessment orders passed in the case of the appellant for earlier assessment years and since the matter was

pending before the Hon'ble UAT, he made the disallowance and addition to the total income. On going through the appellate order passed in the case of the appellant for AY 2011-12, my predecessor has held as under:-

"/ have considered the facts of the case, assessment order and submissions made by the Appellant. The AO has contended that Appellant has claimed discount and trade difference of Rs.2,31,95,051/-. The AO has relied upon the assessment order for AY 2010-11 wherein it was observed that Appellant has not submitted proper evidence in support of its claim and even circular dated 19/05/2009 relied upon has no sanctity as same is without earmarking company's seal and signature. On the other hand, Appellant has argued that it has submitted ledger account along with complete details regarding discount and trade difference. Even comparative chart of discount vis-a-vis sales was also submitted which proves that expenditure incurred on account of discount/trade difference is business expenditure. It was also argued that discount has been allowed to various dealers as per trade practice , and even payments were made in earlier assessment years.

On careful consideration of entire facts it is observed that Appellant has established its business to provide high value research and hybrid seeds to farmers as a brand name "Western" since last twenty years. In any business, discount/rate difference is allowed to customers as per policy of the business and for which trade circulars are issued on time to time basis. The entire payment made by Appellant is duly reflected in ledger account of various dealers and supported by evidences. Even AO has not pointed out any defect in such evidences produced by Appellant On the basis of submission, it is seen that AO has not drawn any adverse inference which is apparent in the assessment order. The issue was raised from the details submitted by appellant, which prove that Appellant has produced evidences in support of its claim. It is pertinent to note that ratio of discount to turnover in A.Y. 2008-09 was 6,25%, 7,02 % in A.Y, 2009-10 and 6.66% in year under consideration, which supports the contention of the Appellant that discount/rate difference are allowed consistently. Further, in AY 2009-10, AO has made partial disallowance of such expenditure on the ground that there was increase in such expenditure, which was deleted by undersigned vide Order dated 10/12/2013 in Appellate Order

No. CIT(Appeals)/GNR/367/2012~13, Similar view, is . . -taken , by the undersigned in for AY 2010-11 In Appeal No.CIT(A)-GNR/103/2013-14 dated 30/7/2014, Further, gross profit ratio of Appellant for the year under consideration has improved and same is accepted by AO. The AO has not brought out any evidences which can suggest that payment made by Appellant is non-genuine or in fact, not received by dealers and made addition on hypothecation basis. Thus, on holistic consideration of entire facts, addition of Rs,2,31,9S,051/- made by the AO is deleted. The ground of appeal is allowed.

Since the issue in hand for the year under appeal is similar to the one decided for the preceding assessment years and also for the fact that the AO has also relied on the assessment orders and the submission made by the appellant is also on similar lines, I find no reason to deviate from the decision taken for AY 2011-12 vide order dated 31/07/2014, reproduced above. Relying on the same, the disallowance made by the AO of Rs.4,23,51,335/- is held not justified and is directed to be deleted. Ground no.1 of appeal is allowed.”

7. There was nothing on record before the ld.AO that claim of the assessee was not genuine or non-existent, he has mechanically followed his predecessor's order to reject, otherwise a justifiable claim of the assessee. Therefore, as observed earlier, since identical issue has been considered in favour of the assessee by the co-ordinate benches of the Tribunal from the Asstt.Year 2010-11 upto the Asstt.Year 2012-13, following the same, we reject this ground of appeal, and dismiss appeal of the Revenue.

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

Order pronounced in the Court on 14th December, 2021 at Ahmedabad.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
VICE-PRESIDENT**

Ahmedabad; Dated 14/12/2021