

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.3192/Chny/2018  
निर्धारण वर्ष/Assessment Year: 2008-09

M/s. Empee Distilleries Ltd.,  
No. 59, Harris Road, Pudupet,  
Chennai 600 002.

Vs. The Additional Commissioner of  
Income Tax,  
Corporate Range 2,  
Chennai.

**[PAN:AAACE1687N]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 17.03.2022  
घोषणा की तारीख /Date of Pronouncement : 22.03.2022

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 6 (I/c), Chennai dated 26.09.2018 relevant to the assessment year 2008-09. The only effective ground raised in the appeal of the assessee relates to confirmation of the value of fringe benefit which was quantified at ₹.6,49,151/- being 20% of ₹.32,45,755/- towards sales promotion expenses.

2. Brief facts of the case are that the assessee filed its original return of income for the assessment year 2008-09 on 29.09.2008 declaring total value of fringe benefit at ₹.36,41,391/-. After following due procedure, the Assessing Officer has completed the assessment under sub-section (3) of section 115WE of the Income Tax Act, 1961 ["Act" in short] by assessing the value of fringe benefit and quantified at ₹.6,49,151/- being 20% of ₹.32,45,755/- towards sales promotion expenses. On appeal, the Id. CIT(A) confirmed the assessment order.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the amount has already been offered for taxation in the subsequent assessment year and prayed that the addition may be deleted.

4. On the other hand, the Id. DR supported the orders of authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The assessee has claimed ₹.50,76,303/- as sales promotion expenses whereas in the FBT return it has offered only ₹.11,05,230/-. When the

assessee's representative was asked to show cause as to why the difference should not be considered as Fringe Benefits, he has submitted before the Assessing Officer that the sales promotion expenses included expenses like travel & conveyance, guest house etc., which are shown under different heads for FBT purposes in the FBT return and the difference is due to the reallocation of expenses in the FBT return. As the assessee could not furnish any details in support of its claim, the Assessing Officer assessed the value of fringe benefit by quantifying at ₹.6,49,151/- being 20% of ₹.32,45,755/- towards sales promotion expenses and brought to tax. On appeal, the Id. CIT(A) confirmed the addition made by the Assessing Officer. Before us, the Id. Counsel for the assessee has submitted that the amount has already been offered for taxation in the subsequent assessment year and prayed that the addition may be deleted. Since the assessee has not produced any evidence for offering the sum for taxation in the subsequent assessment year, we direct the Assessing officer to verify the records and allow the claim of the assessee, if the said amount was offered for taxation in subsequent assessment year.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 22<sup>nd</sup> March, 2022 at Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 22.03.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.