

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE
SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 1065/Del/2017

Asstt. Year : 2013-14

The Kisan Cooperative Sugar Factory Ltd. Sarsawa C/o. S.P. Jain & Associates, 303-305, Bhanot House, 17, Yusaf Sarai Commercial Complex New Delhi – 110 049 PAN AAAJT1019Q	Vs.	DCIT, Circle Saharanpur Uttar Pradesh
(Appellant)		(Respondent)

Assessee by:	None
Department by :	Shri Umesh Takyar, Sr. DR
Date of Hearing	04.04.2022
Date of pronouncement	25.04.2022

ORDER

PER ASTHA CHANDRA, JM

The appeal by the assessee is directed against the order dated 04.10.2018 of the Ld. Commissioner of Income Tax (Appeals)- Muzaffr nagar (**"CIT(A)"**) pertaining to the Assessment Year 2013-14.

2. The assessee has taken following ground:-

"The Ld. CIT (A) has erred in confirming the disallowance of Rs. 14,91,445/- out of disallowance of Rs. 18,12,662/- made by Assessing Officer on account of Repair and Maintenance of Plant and Machinery on estimate basis."

3. Notice of hearing was issued on 07.07.2021 fixing the date of hearing on 09.08.2021. The postal authorities returned the notice unserved with the remark "left without address". So none attended on behalf of the assessee, though Sr. DR was present. Another notice was issued on 06.09.2021 fixing the date of hearing on 28.10.2021. That day also none attended for the assessee but Sr. DR attended. Last notice was sent on 22.02.2022 fixing the hearing on 04.04.2022. This notice has also been returned by the postal authorities with the remark "left without address". We are, therefore constrained to decide the appeal ex-parte after hearing the Ld. DR.

4. The assessee is a Co-operative Society engaged in the manufacture and sale of sugar and its by-products. The Ld. AO noticed that the assessee has claimed repair and maintenance of plant and machinery at Rs. 1,81,26,624/-. Income from closing stock of scrap was declared at NIL. The Ld. AO estimated the value of scrap at 10% of the amount of repair and maintenance expenses and added Rs. 18,12,662/- to the income of the assessee.

5. On appeal, the assessee explained to the Ld. CIT(A) that the repair and maintenance for plant and machinery are on account of store consumption of Rs. 1,49,24,424/-, contract jobs at Rs. 21,81,968/- and lubricants & grease at Rs. 10,20,232/-. There was no question of generating any scrap out of expenses for contract jobs, lubricants & grease. In the case of store consumption, it was explained that when scrap is generated out of consumption the same is sold with the permission of District Magistrate after inviting tenders and sale of scrap is shown in the accounts in the year in which scrap is sold. It was also explained that this scrap generated on the replacement of the machine parts is of very low account because the value of scrap due to old parts is negligible as compared to the value of new parts replaced (which are reflected in the amount of repair/ maintenance expense). It was submitted that the estimation of scrap @ 10% of the store consumption is not reasonable and unjustified. Reliance was placed on the

decision of the Tribunal in the case of Kiccha Sugar Co. Ltd. vide ITA No. 345/Del/9 dated 08.01.2010.

6. The Ld. CIT(A) gave part relief by restricting the addition to Rs. 14,91,445/- being 10% of the value of stores consumption of Rs. 1,49,24,424/- with the following observations:-

“8. ...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 bye-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 as 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. Therefore, keeping in view these facts the value of scrap is estimated at 10% of Rs. 1491445/- (excluding cost of contract jobs, lubricant/grease which do not result in any scrap).”

7. We have heard the Ld. DR and perused the material available on record. We are of the considered view that the assessee deserves to succeed. The assessee is a Society registered under the U.P. Cooperative Society Act. Therefore, it has to act within the parameters laid down therein. Before the Ld. AO the assessee explained that it has to take permission of the Administrator of the Society for the sale of scrap. The case of the assessee has all along been that the assessee is adopting the method of accounting on

cash basis meaning thereby that as and when the sale of scrap is held in two-three years the same is accounted for. Before the Ld. CIT(A) also it was explained by the assessee 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. The Ld. CIT(A) has accepted it as a matter of fact that the practice of not showing the amount of scrap in its books in the year of generation but accounts for the same as sale in the year scrap generated is sold, is being followed by the assessee since long. The assessee brought on record a chart of sale made of scrap in last years and subsequent year which revealed that during the financial year 2014-15 it accounted for sale of scrap of Rs. 12,29,006/- in its books of account. We are, therefore, of the view that there is no valid justification for estimating the value of scrap and making the impugned addition by discarding the method of accounting regularly employed by the assessee. The impugned addition of Rs. 14,91,445/- is deleted.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 25th April, 2022.

sd/-
(G. S. PANNU)
PRESIDENT

sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Dated: 25/04/2022

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the	

dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	