IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI

BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. YOGESH KUMAR US, JUDICIAL MEMBER

ITA No. 6967/Del/2018
(Assessment Year : 2015-16)

DCIT Circle – 2 Meerut PAN No. AACCS 2788 N	Vs.	Sanspareils Greenlands Pvt. Ltd., 28/32, Victoria Park, Sports Colony, Meerut Uttar Pradesh
(APPELLANT)		**(RESPONDENT)**

Assessee by	Shri Prem Jit Singh Kashyap, Adv.
Revenue by	Shri B. S. Anand, Sr. D.R.

Date of hearing:	09.05.2022
Date of Pronouncement:	23.05.2022

ORDER

PER ANIL CHATURVEDI, AM :

This appeal filed by the Revenue is directed against the order dated 16.08.2018 of the Commissioner of Income Tax (Appeals)-Meerut relating to Assessment Year 2015-16.

2. Brief facts of the case as culled out from the material on record are as under:-

3. Assessee is a company which is stated to be engaged in the business of manufacturing, sale and export of sports goods.

Assessee electronically filed its return of income for A.Y. 2015-16 on 29.09.2015 declaring income of Rs.7,64,80,300/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 27.12.2017 and the total income was determined at Rs.9,53,27,308/-. Aggrieved by the order of AO, assessee carried the matter before CIT(A) who vide order dated 16.08.2018 in Appeal No.306/2017-18 granted substantial relief to the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal and has raised the following grounds:

1. *"Whether in the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) has erred in law and fact in deleting the additions made by A.O. during A.Y. 2015-16 on the basis of remand reports of A.O. for A.Ys 2013-14 and A.Y. 2014-15 notwithstanding the fact that every A.Y. is a separately independent year and a remand report should have been sought from the A.O. by the CIT(A) for the A.Y. 2015- 16 before proceeding to delete the additions on the basis of remand report of earlier A.Ys.*

2. *Whether in the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) has erred in law and fact in deleting the addition of Rs. 17,57,040/- made by the A.O. on account of disallowance of 50% of expenditure incurred on account of goods replaced without considering the fact that the assessee failed to submit details of goods replaced and any supporting evidence to substantiate his claim.*

3. *Whether in the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals) has erred in law and fact in deleting the addition of Rs. 17,89,906/- made by the A.O. on account of disallowance of 50% of expenditure incurred by assessee on account of goods given to players for sale promotion ignoring the fact that the assessee does not possess any documentary evidence in support of this expenditure.*

4. *Whether in the facts and circumstances of the case, the Ld.*

Commissioner of Income Tax (Appeals) has erred in law and fact in deleting the addition of Rs. 1,48,52,586/- made by the A.O. on account of disallowance of 50% of expenditure incurred by assessee owing to discount given to Indian customers without considering the fact that the assessee never furnished any tangible reason for providing such discounts only to the Indian customers and not over export sales.

5. *That in the facts and circumstances of the case, the order of the Ld. Commissioner of Income Tax (Appeals) may be set aside and that of the AO be restored.*

6. *That the appellant craves leave to add, modify and/or delete any ground(s) of appeal."*

4. The issue in all the grounds are with respect to the adhoc disallowance made by AO namely with respect to the expenditure incurred from goods replaced, disallowance of expenditure on account of goods given to players for sale promotion and disallowance on account of discount given to Indian customers.

5. During the course of assessment proceedings, AO noticed that assessee had debited expenditure of Rs.35,14,079/- on account of goods replaced. AO noted that assessee did not file the details of goods replaced and any supporting evidence. He therefore considered 50% of the expenditure to be not allowable and accordingly disallowed Rs.17,57,040/-.

6. AO also noticed that assessee had debited expenditure of Rs.1,00,06,136/- on account of goods used for sale promotion. On the basis of the details submitted by the assessee, AO noticed that goods worth Rs.44,74,763/- was given to the players and

assessee was not in possession of any documentary evidence in support of the aforesaid expenditure. AO therefore held that full expenditure cannot be allowed. He accordingly disallowed 50% of expenditure amounting to Rs.22,37,382/-. When the matter was carried before CIT(A), CIT(A) after considering the submissions of the assessee remand the report of the AO for A.Y. 2013-14 & 2014-15 noted that though the confirmation from all the players for receipt of goods was not produced but AO had acknowledged it to be a business practice. He thereafter noted that there was no provision in the Act to make adhoc disallowances when the accounts of the assessee was audited and are subject to verification by various tax authorities. However, in the interest of Revenue, he upheld the disallowance to the extent of Rs.44,74,763/- and directed the deletion of balance addition of Rs.17,89,906/-.

7. AO on perusal of the profit and loss account noted that assessee had debited Rs.2,97,05,172/- on account of discount given to Indian customers. It was submitted by the assessee that the discount was given to Indian customers for timely payment and achieving sale targets. The submissions of the assessee was not found acceptable to AO. AO had noted that assessee had not given any reason as to why this discount was given on Export sales. He accordingly held the 50% of the aforesaid discount amounting to Rs.1,48,52,586/- to be not allowable and accordingly made its addition. When the matter was carried

before CIT(A) CIT(A) noted that the customers who's accounts was obtained in proceeding under Section 133(6) of the Act had confirmed the discount received and had accounted for the trade discount and cash discount in the books of accounts. He also noted that AO in A.Y. 2013-14 & 2014-15 issue being identical to that of the year under consideration held that there was no reason for making adhoc disallowance. He accordingly directed the deletion of addition made by AO. Aggrieved by the order of CIT(A), Revenue is now before us.

8. Before us, Learned DR took us to the findings of AO and CIT(A) and submitted that CIT(A) while deleting the addition has relied upon to the remand report for A.Y. 2013-14 & 2014-15 and that no remand report was called for the year under consideration. He therefore submitted that order of AO on all the above grounds be upheld.

9. Learned AR on the other hand reiterated the submissions made by the AO and CIT(A) and further submitted that AO had made adhoc disallowance without pointing out any discrepancy in the accounts of the assessee. He thereafter submitted that identical disallowance was made by AO in A.Y. 2012-13 and when the matter was carried before Tribunal, Tribunal vide order dated 07.10.2019 in ITA No.1663/Del/2016 had set aside the matter to the file of AO with the directions contained therein. He submitted that the AO pursuant to the direction of ITAT passed

order u/s 254/143(3) of the Act vide order dated 31.08.2020 and had deleted the addition. He further submitted that the similar disallowance was made by AO in A.Y. 2013-14 and CIT(A) had granted relief to the assessee. The order of CIT(A) was not appealed by the Revenue meaning thereby that the order of CIT(A) attained finality. He further submitted that on identical issue the assessment for A.Y. 2016-17 & 2017-18 has been completed u/s 143(3) of the Act and no addition has been made except for the 10% of amount spent on goods given to players for promotion of brands. He therefore submitted that considering the aforesaid facts, no intereference with the order of CIT(A) is called for.

10. We have heard the rival submissions and perused the material available on record. The issue in all the above grounds is with respect to the adhoc disallowance made by AO namely with respect to the expenditure incurred from goods replaced, disallowance of expenditure on account of goods given to players for sale promotion and disallowance on account of discount given to Indian customers. We find that identical issue arose in assessee's own case in A.Y. 2013-14 & 2014-15 and the adhoc disallowance made by AO has been deleted. We further find that for A.Y. 2016-17 & 2017-18, the AO has completed assessment u/s 143(3) and no additions has been made by AO on the aforesaid issues . We further find that the disallowance by the AO has been made on adhoc basis without pointing out any instance

which necessitated the disallowance of expenditure. We further find that CIT(A) while deciding the issue in assessee's favour has given a finding that the facts of the case in the year under consideration are identical to that of A.Y. 2013-14 & 2014-15. The aforesaid fact noted by CIT(A) has not been controverted by Revenue. Considering the totality of the aforesaid facts, we are of the view that CIT(A) has rightly deleted addition and to the extent of sale promotion expenses, he has upheld that disallowance to the extent of 10% made by AO for which the assessee also has no grievance. Considering the aforesaid fact, we find no reason to interfere in the order of CIT(A). **Thus the grounds of Revenue are dismissed.**

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

Order pronounced in the open court on 23.05.2022

Sd/-	**Sd/-**
(YOGESH KUMAR US)	**(ANIL CHATURVEDI)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Date:- 23.05.2022

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI