

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH,
PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER AND
DR.DIPAK P.RIPOTE, ACCOUNTANT MEMBER

आयकरअपीलसं. / ITA No.2112/PUN/2019
निर्धारण वर्ष / Assessment Year: 2016-17

Karmayogi Shankarraoji Patil SSK Limited, A/p. Mahatmaphulenagar, Tal. Indapur, Dist. Pune – 413106. PAN: AAAAI 0225 N	Vs	The Income Tax Officer, Ward-14(1), Pune.
Appellant/ Assessee		Respondent /Revenue

Assessee by	Shri Hanmant Dattatry Dhavle - AR
Revenue by	Shri S P Walimbe – DR
Date of hearing	10/06/2022
Date of pronouncement	16/06/2022

आदेश / ORDER

Per S.S.Godara, JM:

This assessee’s appeal for A.Y.2016-17 is directed against the Commissioner of Income Tax(Appeals)-7, Pune’s order, dated 24.10.2019 passed in case no.PN/CIT(A)-7/Cir-14/10189/2018-19 involving proceedings u/s 143(3) of the Income Tax Act, 1961 in short “the Act”.

Heard both the parties. Case file perused.

2. Coming to the assessee’s sole substantive grievance raised in the instant appeal that both the Lower Authorities have erred in law and on facts in disallowing its contribution made to Vasantdada Sugar Institute(VSI) to the tune of Rs.17,75,229/-, it emerges that the

ld.CIT(A) has confirmed the assessment findings to this effect as follows:

“4.3 I have carefully considered the facts of the case and law apparent from the records. The appellant has collected an amount of Rs.17,75,229/- which remained unpaid to research institute (VSI) and claimed deduction under 35(1)(ii). The appellant contended that, it should be treated as paid as defined u/s 43(2) and it is not covered under section 43B. The appellant relied on the decision of the Panchaganga SSK Ltd. The appellant is eligible for weighted deduction u/s 35(1) to on payment to approved institution VSI by virtue of the notification of the CBDT in this regard in 2007. The appellant has not been able to adduce any evidence that amount has been paid to VSI and receipt in this regard has been received from VSI. The VSI cannot account the amount of contribution from the appellant unless it is received by the VSI and in turn the VSI issues certificate of the contribution. The contribution being made by the appellant is not deduction itself. If the appellant is doing research itself then, such possibility of getting deduction without making actual payment may arise. The VSI is also require to furnish the details of contribution received during the financial year to the authority specified in the notification. If name of the contributor along with amount is not appearing in particular financial year the deduction cannot be claimed. The appellant has also not demonstrated that, the receipts following the category diversion of income by overriding title. In this circumstances the decision of the ITAT, Pune in case of Panchangana SSK Limited, on

the issue and the provisions of sec. 43(2) are not applicable to the facts of the present case. The section 43(2) states that, paid means actually paid. The amounts were found to be not paid during the year. The purpose of notification is to encourage research, which cannot be attained unless amount is actually received and actually spent for the purpose of research. Claiming such deduction is not in the spirit of the notification of the CBDT, No. 177 /2007(F.No.203/ 13/2007 /ITA-II), dated 24/05/2007. In view of the above, action of the AO, disallowing the deduction u/s 35(1)(ii) of Rs. 17,75,229/- is upheld. Accordingly, Ground No. 3 of the appeal is dismissed.”

3. We find that both parties vehement rival stands against and in support of the impugned disallowance that the assessee had merely made a provision of the impugned sum than having actually contributed / paid the same to the recipient as it is learned counsel's plea before us. There is no material before us which could throw light on the basis of the impugned provision as on 31.03.2016. Mr.Dhavle strongly argued that this tribunals various co-ordinate benches have already allowed similar claims in case of the very recipient i.e. Vasantdada Sugar Institute. Be that as it may, we are of the view the Assessing Officer needs to re-examine the entire issue afresh in the light of assessee's corresponding material leading to the impugned provision in relevant previous year in light of all of the latter's evidence to be filed in consequent proceedings. Needless to say, he shall also taken into consideration all the relevant

judicial precedents to this effect in consequential proceedings. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purpose in above terms.

Order pronounced in the open Court on 16 June, 2022.

Sd/-
(DIPAK P.RIPOTE)
ACCOUNTANT MEMBER

Sd/-
(S S GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 16 June, 2022/ SGR*

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A) concerned.
4. The Pr. CIT concerned.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.