

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA Nos. 292, 293 & 294/Hyd/2019  
(निर्धारण वर्ष / Assessment Year: 2012-13, 2013-14 & 2014-15)

Deputy Commissioner of Income Tax, Circle-16(2), Hyderabad	Vs.	M/s.Prabhat Agri Biotech Limited, Hyderabad [PAN No. AABCP8801C]
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अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri C.S.Subrahmanyam, AR  
राजस्व द्वारा/Revenue by: Shri Y.V.S.T.Sai, CIT-DR

सुनवाई की तारीख/Date of hearing: 22/06/2022  
घोषणा की तारीख/Pronouncement on: 29/06/2022

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Challenging the orders passed by the learned Commissioner of Income Tax (Appeals)-4, Hyderabad ("Ld. CIT(A)") in the case of M/s Prabhat Agri Biotech Ltd. ("the assessee") for the assessment years 2012-13 to 2014-15, Revenue preferred these appeals.

2. Brief facts of the case are that the assessee company is engaged in the business of seed production, research, marketing of field and vegetable crops and wind power generation. Assessee is deriving income from their own production of seeds as well as trading of seeds. Assessee has been claiming deduction under section 10 (1) of the Income Tax Act, 1961 (for short "the Act") for the income arose out of own production of seeds. The assessee, however, submitted a single Profit and Loss Account (P&L Account) for both the businesses, but they were to recover expenditure between own production and trading of seeds on the cost of goods sold (CoGS), thereby determined the income. Learned Assessing Officer, however did not accept this allocation of common expenditure on the basis of cost of goods sold, but located the expenses on the basis of turnover of different activities to determine the income for the assessment years 2013-14. So also for the assessment year 2012-13, the assessment order that was originally passed was revised by the principal Commissioner of Income Tax under section 263 of the act and while giving effect to such an order dated 30/03/2017, the learned Assessing Officer followed the basis of turnover of different activities for bifurcations of the common expenses and determined the income on such basis. For the year 2014-15 it was noticed by the learned Assessing Officer that the assessee was debiting certain amount towards "provision for sales returns", which the learned Assessing Officer disallowed on the basis that the said provision is not scientific in its basis, and made an addition on that score.

3. Aggrieved by such orders of the learned Assessing Officer, assessee challenged the same before the Ld. CIT(A). Insofar as the allocation of the common expenses is concerned, Ld. CIT(A) had taken a stand that in the

case of the activity of selling the hybrid seeds in a composite activity, the sale of hybrid seeds comprises of seeds produced on own and seeds purchased from outside, and all the activities of sales promotion, administration etc., are incurred jointly for both the segments; and that, therefore, it is necessary that a reasonable basis should be adopted to apportion the expenses between the two segments; and that where the assessee followed the matter of allocation of the common expenses on the basis of the cost of goods are sold, which was accepted by the Department in the earlier assessment years it is reasonable to follow the same thing for these assessment years also. The reason attributed by the Ld. CIT(A) for reaching this finding is that certain uniform procedures of allowing discounts to customers and the expenditure on personnel consists of salaries and other benefits to production and sales manpower, staff benefits to sales personnel is predominant in the total personal cost, the cost of goods sold and represents the cost of production as adjusted to the opening and closing stock of seeds, which reflects the quantity of sales at cost price and therefore the expenditure allocated between agricultural and non-agricultural basis on cost of goods sold reflects appropriate allocation of common cost. He, therefore, deleted the addition made by resorting to the allocation of the common expenses on the basis of turnover of various activities.

4. In respect of the provision for sales returns, Ld. CIT(A) noted that all the sales returns are subsequently taken into stock in the accounting of books and therefore, the sales returns cannot be treated as an asset and liability. He accordingly deleted the addition in respect of the assessment year 2014-15.

5. Revenue is, therefore, in this appeal before us challenging the deletion of additions made by the learned Assessing Officer.

6. We have gone through the record in the light of the submissions made on either side. There is no dispute that for allocation of the common expenses the assessee has been by forgetting the expenses incurred for agricultural as well as non-agricultural activities on the basis of cost of goods sold, in the earlier assessment years. There cannot be any dispute that any of the methodology, either it be on the basis of cost of goods sold or the turnover of different activities would suffer certain limitations. Each method will have its own variance of the estimate.

7. As observed by the Ld. CIT(A), the sale of hybrid seeds comprises of seeds produced on loan and seeds purchased from outside, and all the activities of sales promotion, administration etc., are incurred jointly for both the segments. Further according to the Ld. CIT(A) staff benefits to sales personnel is predominant in the total personal cost and the cost of goods sold represents the cost of production as adjusted to the opening and closing stock of seeds, which reflects the quantity of sales at cost price. For these reasons, Ld. CIT(A) accepted the contention of the assessee that the expenditure allocation between agricultural and non-agricultural activities on the basis of cost of goods sold reflects appropriate allocation of common cost. It is pertinent to note that as rightly observed by the Ld. CIT(A) every methodology of estimation suffers from limitation and such limitations causing variations how to be smooth and on consistent application of the same principle. At this juncture Ld. CIT(A) was of the opinion that inasmuch as for the earlier assessment years the assessee adopted the basis of cost of goods sold as a reasonable method of

apportionment of the agricultural and non-agricultural expenses out of the common expenses.

8. Inasmuch as both the cost of goods sold and also the turnover of different activities, to be the basis for allocation of the common expenses to have their own way and cess and variations, what is required is the following of the consistent method. Inasmuch as there is no dispute that the assessee has been consistently following the method by forgetting the common expenses on the basis of cost of goods sold, the rule of consistency demands that the same shall not be disturbed for a particular assessment year because it goes against the interest of Revenue. We, therefore, accept the reasoning adopted by the Ld. CIT(A) and hold that there is nothing wrong in the Ld. CIT(A) accepting the cost of goods sold as the basis for allocation of the common expenses. On this premise, we dismiss ITA Nos. 292 and 293/Hyd/2019.

9. Coming to the question of allowing the "provision for sales returns", Ld. DR placed reliance on the addition of the Hon'ble Apex Court reported in Rotork Controls India (P) Ltd Vs.CIT (2009) 180 Taxman 422 (SC) for the principle that a provision is recognised when an enterprise has a present obligation as a result of past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation - and then only a provision can be recognised. He submitted that the learned Assessing Officer clearly held that the assessee, for the 1<sup>st</sup> time, has created a provision for sales written which is nowhere adopted in the previous assessment years, and the said provision for sales written in itself does not qualify to be allowable as Revenue expenditure because such a provision is created for an

unascertained liability. He further submitted that, as a matter of fact, the learned Assessing Officer noticed that the return value of the goods was at Rs. 12,77,32,150/- whereas the actual provision for sales returns was made of Rs. 3,29,97,768/-, which shows the fact that the assessee has a try to create a provision for an item which is not quantifiable and it assumes nature of an asset and liability. Further according to him there is no basis for arriving at the figure of Rs. 3,29,97,768/- as provided by the assessee for sales returns. Basing on these facts, Ld. DR submitted that the provision created for an asset and liability was rightly disallowed by the assessing officer and the Ld. CIT(A) was not correct in deleting the same.

10. Per contra, it is the submission on behalf of the assessee that as per the industry practice seeds are dispatched to the distributors authorising and invoice, the seeds are then sold to the farmers as per their requirements, the exact quantity of off take of sales by the farmers cannot be predicted correctly because it depends upon the crop pattern adopted by the farmers and, therefore, it is normal in this type of seasonal business, certain quantities of stock written back by the distributors of the closing of seeds necessitating recertification before they can be sent back to the market for sale. He, therefore, submits that in consonance with this industry practice, the assessee had estimated an amount of Rs. 5,78,55,610/- as sales returns, as per the information available before the finalisation of the financial statements and the cost attributable to the sales returns was Rs. 3.29 Crores which was shown as part of the closing stock as reflected in the schedule. In the circumstances he submits that the assessee provided the actual sales returns for the month of April, May and June, 2014 for each grade of seeds sold. He further submits that the

financial statements are drawn based on certain assumptions and estimates and is not possible to estimate accurately the provisions that may have to be made to finalise the financial accounts and a reasonable basis of estimation developed over a period of business experience is used to establish the year end provisions.

11. We have perused the impugned order. It is a fact that the assessee supplies seeds to its distributors located in the states of Kerala, Andhra Pradesh and Karnataka and after the season is complete the sales distributors identify the stock of seeds of various varieties which are not sold by the end of Ruby season of plantation. As a matter of fact Ld. CIT(A) noted that the distributors how to return the unsold stock after the end of the season and if such receipts are to be sold subsequently they need appropriate preservation and chemical treatment to sustain its utility; and that the stock of seeds is subsequently received in April, May, June and July; that at the time of receipt of the stock the seeds are taken into stock with appropriate adjustment to the customers/sales distributors outstanding balance and such a practice is part of the said business and is driven more by the seasonal nature of the business and also on account of short shelf life of the seeds. In the circumstances Ld. CIT(A) satisfied that, inasmuch as all the sales returns are subsequently taken into stock in the books of the assessee, the provision for sales return cannot be treated as an asset and liability.

12. We do not find anything perversity in the findings of the Ld. CIT(A). In view of the seasonal nature of the business and also the short shelf life of the seeds, it is imperative for the assessee to take into account the quantity of unsold seats at the end of the year and the need to revalidate

their further utility and to take them into stock in the next season. In the circumstances it cannot be said that the provision for sales returns is unascertained or unreasonable. With this view of the matter, we allow the contentions of the assessee and uphold the findings of the Ld. CIT(A). Accordingly ITA No. 294/Hyd/2019 is also dismissed.

13. In the result, all the appeals of the Revenue are dismissed.

Order pronounced in the open court on this the 29<sup>th</sup> day of June,  
2022

Sd/-  
**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

*TNMM*

Hyderabad,  
Dated: 29/06/2022

Copy forwarded to:

1. The Deputy Commissioner of Income Tax, Circle-16(2), Hyderabad.
2. M/s.Prabhat Agri Biotech Limited, D.No.8-2-277/45, 1<sup>st</sup> Floor, Road No.3, UBI Colony, Banjara Hills, Hyderabad.
3. CIT(A)-4, Hyderabad.
4. Pr.CIT-4, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ITAT, HYDERABAD