

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. / ITA No.131/PUN/2020

निर्धारण वर्ष / Assessment Year : 2014-15

M/s. Mohammad Bhai Esufali & Sons, BPCL Dealer, Opp. Rangubai Junnare School, Mumbai Agra Road, Dwarka, Nashik- 422 209 Maharashtra PAN : AAHFM1984G	Vs.	ITO, Ward-1(4), Nashik
Appellant		Respondent

Assessee by None
Revenue by Shri Piyush Kumar Singh Yadav

Date of hearing 30-06-2022
Date of pronouncement 01-07-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order dated 21-11-2019 passed by the CIT(A)-1, Nashik in relation to the assessment year 2014-15.

2. The only issue raised in this appeal is against the confirmation of disallowance of Rs.5,69,927/- towards wastage or shortage on evaporation.

3. Briefly stated, the facts of the case are that the assessee is a dealer in Petrol and Diesel, running a Petrol pump. During the course of assessment proceedings, the Assessing Officer (AO) observed that the wastage/evaporation claimed by the assessee was on higher side *vis-à-vis* the limits prescribed by the oil companies. On being called upon to explain the reasons, the assessee submitted that more evaporation/wastage occurred because of Diesel and Petrol tank breakage. Not satisfied, the AO applied the standards fixed by the oil companies for wastage/ evaporation and computed the excess wastage, which translated into an addition of Rs.5,69,927/-. The Id. CIT(A) affirmed the assessment order. Aggrieved thereby, the assessee has approached the Tribunal.

4. I have heard the Id. DR and gone through the relevant material on record. There is no appearance from the side of assessee despite notice. I am, therefore, proceeding to dispose of the appeal *ex parte qua* the assessee on merits.

5. The only dispute is about wastage/evaporation claimed by the assessee at 1.23%/0.89%. These figures have emerged from the tabulation made in the impugned order on page 4, where the

assessee gave a comparative analysis showing that the wastage/shortage in the immediately preceding year was higher at 1.25%/1.12%, which got accepted by the Revenue. The assessee also gave separate reasons for the excess wastage, being, breakage of diesel and petrol tank. In my considered opinion, though the general standards of evaporation/breakage given by the oil companies apply as a rule but they are not without exception. Where the assessee demonstrates specific reasons for excess wastage/evaporation, such reasons cannot be thrown to the dustbin. They need to be examined on case to case basis. Simply because the wastage/evaporation turned out to be a little higher in comparison with the standards, the authorities cannot make addition *de hors* examination of the assessee's explicit explanation. Considering the fact that the assessee gave specific reasons in this case for higher wastage *vis-à-vis* the standards set by the oil companies, which was also lower than that of the immediately preceding year, I am satisfied that there is no reason to sustain such disallowance. The addition of Rs.5,69,927/- is, ergo, directed to be deleted.

6. In the result, the appeal is allowed.

Order pronounced in the Open Court on 01st July,
2022.

Sd/-
(R.S.SYAL)
उपाध्यक्ष/ VICE PRESIDENT

पुणे Pune; दिनांक Dated : 01st July, 2022
Satish

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-1, Nashik
4. The Pr.CIT-1, Nashik
5. DR, ITAT, 'SMC' Bench, Pune
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

		Date	
1.	Draft dictated on	30-06-2022	Sr.PS
2.	Draft placed before author	01-07-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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