

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.241/PUN/2020
निर्धारणवर्ष /Assessment Year: 2003-04

Manganga Sahakari Sakhar Karkhana Ltd., A/p. Sonarsiddhanagar, Tal.Atpadi, Dist.Sangli. PAN: AAAAM 1794 J	Vs	The Deputy Commissioner of Income Tax, Circle Sangli.
Appellant/ Assessee		Respondent/ Revenue

Assessee by	None.
Revenue by	Shri Arvind Desai – DR
Date of hearing	16/06/2022
Date of pronouncement	08/07/2022

आदेश/ ORDER

PER DR.DIPAK P.RIPOTE, AM:

This appeal filed by the Assessee is directed against the order of Id.Commissioner of Income-tax(Appeals)-1, Kolhapur's, order dated 12.12.2019 for the Assessment Year 2003-04, involving proceedings under section 143(3) of the Income Tax Act, 1961. The Assessee has raised the following grounds of appeal:

- “1. *On the fact and circumstance of the case and in law of the learned Commissioner of Income Tax (Appeals)-1, Kolhapur has erred in disallowing and adding back an amount of Rs.27,43,990/- on account of Sale of sugar at concessional rate.*
2. *The appellant craves for the leave, add, alter, amend, modify and delete any or all the above grounds of appeals before or at the time of hearing.”*

2. Brief facts of the case are that the Appellant Assessee is a sugar factory. During the assessment proceedings the Assessing Officer (AO) observed that the assessee had sold sugar to cane grower farmers at a concessional rate. They sold the sugar at Rs808/- pr qtls to farmers but the Fair market price was Rs.1105 per quintal. They sold 7663 Quintals to farmers at concessional rate. The AO treated the difference as distribution of profit to members and added it.

2.1 The Ld.Commissioner of Income Tax(Appeals) confirmed the addition.

2.2 Aggrieved by the order of the ld.Commissioner of Income Tax(Appeals) the assessee filed the present appeal before this Tribunal.

3. We have heard the Ld.DR for the Revenue and perused the material available on records. It is observed that the said issue has been decided by the ITAT Pune Bench in the case of Majalgaon Sahakari Sakhar Karkhana Ltd., ITA No.308/PUN/2018 & Others.

The ITAT Pune has held as under:

“In our considered opinion it would be just and fair if the impugned orders on this score are set aside and the matter is restored to the file of AOs, instead of to the CITs(A), for fresh consideration as to whether the difference between the average price of sugar sold in the market and that sold to members at concessional rate is appropriation of profit or not, in the light of the directions given by

the Hon'ble Supreme Court in the case of Krishna Sahakari Sakhar Karkhana Limited (supra)."

4. Respectfully following the above decision, we set aside this issue to the file of Assessing Officer for re-adjudication in the light of the Hon'ble Supreme Court's decision in the case of Krishna Sahakari Sakhar Karkhana Ltd., (2012) 27 taxmann.com 162 (SC), order dated 25.09.2012. Accordingly, the Ground No.1 is allowed for statistical purpose.

4.1 In the result, Ground No.1 of the assessee is allowed for statistical purpose.

5. Thus, the appeal of the Assessee is allowed for statistical purpose.

Order pronounced in the open Court on 8th July, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 8th July, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / 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. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकरअपीलीयअधिकरण, पुणे/ITAT, Pune.