

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.229/PUN/2020
निर्धारणवर्ष /Assessment Year: 2016-17

Loknete Marutrao Ghule Patil Dnyaneshwar Sahakari Sakhar Karkhana, At post Dnyaneshwar Nagar, Bhendsk, Tal.Newasa Shevgaon Road, Ahmednagar – 414605. PAN: AAAAS 4092 H	Vs	The Assistant Commissioner of Income Tax, Ahmednagar Circle, Ahmednagar.
Appellant/ Assessee		Respondent/ Revenue

Assessee by	Shri Pramod S Shingte – AR
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), Pune-2's, order dated 04.12.2019 for the Assessment Year 2016-17, involving proceedings under section 250 of the Income Tax Act, 1961. The Assessee has raised the following grounds of appeal:

- “1. *On the facts and in the circumstances of the case and in law the Lower Authorities have erred in disallowing sum of Rs.1,19,743 on account of sugar sold on concessional rate by disregarding appellant's contention. Your appellant prays for the deletion of entire amount.*”

2. Brief facts of the case are that during the assessment proceedings the assessing officer observed that the assessee had sold sugar at concessional rate to members. The Assessing Officer(AO) added the difference between the concessional rate and market rate.

3. Aggrieved by the order of the AO, the assessee filed an appeal before the Id.Commissioner of Income Tax(Appeal). The Id.Commissioner of Income Tax(Appeal) confirmed the addition.

4. Aggrieved by the order of the Id.CIT(A), the assessee filed appeal before this Tribunal.

5. The Id.Authorised Representative(Id.AR) for the Assessee submitted that the issue is covered in assessee's favour. The Ld.DR supported the order of lower authorities.

6. We have heard both parties and perused the 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).”

7. 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.

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

9. 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.