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.1783/PUN/2018
निर्धारणवर्ष /Assessment Year: 2015-16

Dnyaneshwar SSK Ltd., Dyaneswar Nagar, Sakhar Karkhana, Post. Bhande, Newasa – 414605. PAN: AAAAS 4092 H	Vs	The Assistant Commissioner of Income Tax, Ahmednagar.
Appellant/ Assessee		Respondent/ Revenue

Assessee by	Shri Pramod S Shingte – AR
Revenue by	Shri S.P.Walimbe – DR
Date of hearing	29/06/2022
Date of pronouncement	14/07/2022

आदेश/ ORDER

PER DR.DIPAK P.RIPOTE, AM:

This appeal filed by the Assessee is directed against the order of ld.Commissioner of Income-tax(Appeals)-2, Pune's, order dated 21.08.2018 for the Assessment Year 2015-16, involving proceedings under section 143(3) 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 Ld.CIT(A) has erred in sustaining the addition of Rs.8,25,403/- on the ground that, it is in excess of the guidelines prescribed by Department of cooperation for selling the sugar to the members and staff concessional rate.

The above ground of appeal may kindly be allowed to be altered, amended, modified etc. in the interest of natural justice."

2. Brief facts of the case are that the Assessee is a Co-operative Society stated to have been engaged in the business of manufacture and sale of sugar. The assessee filed its Return of Income on 19.09.2015 declaring total loss at Rs.(-)7,26,30,424/- for the year under consideration. During the assessment proceedings the Assessing Officer determined the total loss of Rs.(-)7,18,05,021/- after making addition on account of sale of sugar at concessional rate. The Assessing Officer further observed that the assessee had supplied 1142 qunitals of sugar to its members @Rs2,000/- per quintal when the prevailing market value was around Rs.2,722.77/- per quintal, thereby extending concession in the sale price of sugar to the extent of Rs.8,25,403/-, whereas the rate is excessive as compared to its market price, hence, the excess cane price of Rs.8,25,403/- was disallowed and added to the income of the assessee.

3. Aggrieved with the order of AO, the assessee filed appeal before the ld.CIT(A). The ld.CIT(A) confirmed the assessment order passed by the AO.

4. Aggrieved with the order of the ld.CIT(A), the assessee filed present appeal before this Tribunal.

5. We have heard both the sides 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, order dated 14.03.2019, 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)."*

6. 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 sole ground raised by the assessee is allowed for statistical purpose.

7. In the result, the appeal of the Assessee is Allowed for statistical purpose.

Order pronounced in the open Court on 14th July, 2022.

Sd/-	**Sd/-**
(S.S.GODARA)	**(DR. DIPAK P. RIPOTE)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 14th 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.