

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

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.1789/PUN/2018

निर्धारण वर्ष / Assessment Year : 2015-16

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| Nirabhima Sahakari Sakhar Kharkhana Ltd., A/p Shahajinagar, Tal. Indapur, Dist. Pune – 413114 PAN: AAAAN1256C | Vs. | DCIT, Circle-14, Pune |
| Appellant | | Respondent |

Assessee by Shri Hanmant Dhavle
Revenue by Shri M.G. Jasnani

Date of hearing 18-07-2022
Date of pronouncement 29-07-2022

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for AY 2015-16 arises against the CIT(A)-7, Pune's order dated 25-09-2018 passed in case No. PN/CIT(A)-7/Cir-14/10197/2017-18, in proceedings under Section 143(3) of the Income Tax Act, 1961, in short 'the Act'.

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in its appeal:-

1. *On the fact and in the circumstances of the case and in law of the learned Commissioner of Income Tax (Appeals)-7, Pune has erred in disallowing and adding back an amount of **Rs.37,52,572/-** on account of **Sale of sugar at concessional rate.***
 2. *On the fact and in the circumstances of the case and in law of the learned Commissioner of Income Tax (Appeals)-7, Pune has erred in disallowing and adding back an amount of **Rs.11,02,658/-** on account of **VSI Contribution.***
3. Mr. Jasnani vehemently supported the learned lower authorities action on assessee's sale of sugar at concessional rate (both to members) disallowed in both the lower proceedings. He fails to dispute that the sugar at concessional rate is no more *res integra* as the tribunal's various co-ordinate benches, and more particularly ITA No.68/PUN/2018 in The Malegaon Sahakari Sakhar Karkhana Limited vs. ITO's order dated 21.40.2021 has set aside the concerned assessee's substantive ground back to the assessing authority for its afresh appropriate adjudication as per law. Ordered accordingly.
4. Coming to the second issue of VSI "Vasant Sugar Institute" contribution disallowance u/s 43B since involving a provision only, learned co-ordinate bench's order in Bhima SSK Ltd. ITA

No1414/PUN/2000 has already rejected this very departmental stand. We thus delete the impugned disallowance.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the Open Court on 29th July, 2022.

Sd/-
(DIPAK P. RIPOTE)
ACCOUNTANT MEMBER
पुणे Pune; दिनांक Dated : 29th July, 2022

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

GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-7, Pune
4. The Pr.CIT-6, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" / DR 'B', ITAT, 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 | 19-07-2022 | Sr.PS |
| 2. | Draft placed before author | 28-07-2022 | 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. | | |