

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.193/PUN/2021

निर्धारण वर्ष / Assessment Year : 2015-16

Sanskriti Wines, Shop No.03, Darshan Palace, Gulmohar Road, Savedi, Ahmednagar, Maharashtra 414 003 PAN : AAKFV7888H	Vs.	Pr.CIT, Pune-1
Appellant		Respondent

Assessee by Shri Bharat Shah  
Revenue by Shri Sardar Singh Meena  
Date of hearing 24-08-2022  
Date of pronouncement 24-08-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the order dated 19-03-2021 passed by the Pr.CIT, Pune u/s.263 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2015-16.

2. Briefly stated, the facts of the case are that the assessee is a wine merchant who furnished its return declaring total income of Rs.4,88,140/-. The assessment was made on total income of Rs.6,88,140/-, making an addition of Rs.2.00 lakh on account of

low gross profit. The Id. Pr.CIT noticed that the case was selected for complete scrutiny through Computer Aided Scrutiny Selection (CASS). He observed that the assessee debited payment of license fee to State Excise department, which had two components, namely, Rs.5,07,450/- towards regular license fee and Rs.3,11,604/- being 1/5<sup>th</sup> of Rs.15,58,020/- towards transfer fees paid in connection with the transfer of license from one concern to another. It was opined that the regular license fee was deductible but the amount of transfer fee paid by the assessee in connection with the transfer of license from one concern to another concern was in the nature of capital expenditure and hence ought to have been disallowed u/s.37(1) of the Act. As the Assessing officer (AO) had not examined this issue, the Id. Pr. CIT set-aside the assessment order and remitted the matter to the file of the AO for examining it afresh. Aggrieved thereby, the assessee has come up in appeal before the Tribunal

3. After considering the rival submissions and perusing the relevant material on record, it is seen that the assessee paid two types of license fees. There is no dispute on the deductibility of the regular license fee. The assessee also transferred license of one concern with another for which it had to pay transfer fee to State

Excise department amounting to Rs.15.58 lakh. Treating the same as preliminary expenditure, the assessee debited its Profit and loss account with 1/5<sup>th</sup> of such amount for the year under consideration. The case of the Id. Pr. CIT is that such transfer fees is capital expenditure and hence cannot be allowed as deduction. It is seen that the AO did not examine the license transfer fee during the course of assessment proceedings. The Id. AR also could not point out any case law on the point for allowing such deduction. This shows that the AO ought to have examined this aspect from the angle of deductibility, which he did not. In view of the fact that the Id. Pr.CIT has simply directed the AO to examine this issue afresh and the assessee will have ample opportunity to put across its point of view, we hold that no interference is warranted in the impugned order. We, therefore, countenance the impugned order on this score.

4. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 24<sup>th</sup> August, 2022.

Sd/-  
**(S.S. VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

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

पुणे Pune; दिनांक Dated : 24<sup>th</sup> August, 2022  
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr.CIT-1, Pune
4. DR, ITAT, 'B' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

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

		Date	
1.	Draft dictated on	24-08-2022	Sr.PS
2.	Draft placed before author	24-08-2022	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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