

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

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No. 745/PUN/2019 : A.Y. 2014-15

Greenways Foods & Beverages Distribution Pvt. Ltd.  
S.No. 34A, 2<sup>nd</sup> floor, 'A' Wing,  
Lokmat Building, Sinhagad Road,  
Vadgaon Khurd, Pune-411 041.  
PAN: AADCG 5280g

:Appellant

Vs.

The I.T.O Ward 1(4) Pune

Respondent

Appellant by : Shri Shrenik R. Gandhi, Advocate

Respondent by : Shri Ramnath P. Murkude

Date of Hearing : 20-09-2022

Date of Pronouncement : 20-09-2022

ORDER

PER SHRI PARTHA SARATHI CHAUDHURY, JM :

This appeal preferred by the assessee emanates from order of the Id. CIT(A) dated 01-03-2019 for A.Y. 2014-15 as per the following grounds of appeal.

- 1. Ground No. 1 :Disallowance of Rs.1,90,53,020:***The Hon'ble Commissioner of Income-tax (Appeals) - 1, Pune (hereinafter referred to as the "Hon'ble CIT(A)", seriously erred in not appreciating the facts and circumstances of the case and in not considering all the documents and records submitted including the enduring benefits of the expenses incurred, before upholding disallowance of Rs.1,90,53,020 in AY 2014-15, as per the provisions of the Income-tax Act, 1961 (the IT Act)*
- 2. Ground NO.2: Dismissal of Rs.1,90,53,020:***The Hon'ble CIT(A) ought to have considered and appreciated the provisions of the IT Act and the method of accounting adopted by the Appellant, before concluding that the Appellant was not entitled to claim RS.1 ,90,53,020, as an "expense" in AY 2014-15. The Hon'ble CIT(A) further ought to have appreciated that, the Appellant has not "gained" anything by considering RS.1 ,90,53,020 in Financial Year 2011-12 and FY 2012-13. The Hon'ble CIT(A) ought to have considered that, the amount of Rs.1,90,53,020 [FY 2011-12: Rs. 1,15,36,80 and FY 2012-13: Rs.75,17,340] was considered as "pre-paid" expenses in the respective financial years.*
- 3. Ground No.: 3: Carry Forward of Loss:***The Hon'ble CIT(A) ought to have appreciated that, as the Appellant was entitled to consider Rs.1,90,53,020 as an expense in AY 2014-15, the business loss and subsequent carry forward of loss, cannot be denied to the Appellant*

**4. Ground No.: 4: General Ground and Additional Ground**

*The Assessment Order, passed by the Learned Assessing Officer and the Hon'ble CIT(A) is otherwise illegal and bad in law.*

*The appellant craves leave to add, alter or amend all or any of the above referred Grounds of appeal and to lead such oral and documentary evidence as may be considered necessary.*

2. The grievance of the assessee is the disallowance of prior period expenses of Rs. 1.90 crores by the revenue authorities. The brief facts in this case are that the Id. A.O on examination of Profit & Loss account and the Balance Sheet for the year under consideration found that the assessee-company has debited to P & L a/c the expenses on account of prior period expenses of Rs. 1,90,54,166/-. The assessee was asked to explain how these prior period expenses were allowable expenses. Thereafter, the assessee submitted detailed written submissions which is part of the assessment order. Thereafter, the Id. A.O held as follows:

5.3: *The submission made by the assessee is considered carefully. However, said submission is not acceptable.*

*During the course of assessment proceedings, it is seen from the submission made by the assessee that the assessee has incurred expenses during F.Y. 2011-12 and F.Y. 2012-13 for promoting the new products and transferred to prepaid expenses of Rs. 1,90,53,020/-, now reversed and debited to P & L a/c for A.Y. 2014-15. The assessee has actually incurred the said expenses in earlier year.*

5.4 *The assessee has claimed following expenses as prepaid expenses.*

i)	Distribution expenses	Rs. 69,88,738/-
ii)	Travelling expenses	Rs. 46,67,734/-
iii)	Salary and wages expenses	Rs. 73,96,548/-

5.5 *The assessee is following mercantile system of accounting consistently. The provision for outstanding expenses was not made by the assessee. Considering the mercantile accounting system, the prior period expenses of Rs. 1,90,53,020/- debited to P & L a/c are not allowable. The expenditure relating to that particular year only can claim against those receipts. The assessee has not submitted supporting evidences that the said expenses can be treated as prepaid expenses. Therefore, the prior period expenses of Rs. 1,90,53,020/- are hereby disallowed and added to the total income accordingly."*

3. The Id. CIT(A) on this issue observed and held as follows:

*"I have carefully considered the submission of the appellant in light of the facts of the case. I find that the impugned expenses of Rs. 1,90,53,020/- relates to the AYs 2012-13 and 2013-14 and not to the assessment year under consideration. I have also examined the nature of these expenses of the prior periods and out of the same*

*Rs. 69,88,738/- relates to distribution expenses, Rs. 46,67,734/- relates to travelling expenses and Rs. 73,96,548/- relates to salary and wages expenses for the period prior to assessment year in question. During the course of the appellate proceedings the Id. Counsel for the appellant referred to the paper book page no. 67 and submitted before me that these expenses were supposed to give enduring benefits to the appellant and hence considered prepaid expenses in respective financial years. Id. AR for the appellant also argued before me that the revenue of the appellant in the FY 2011-12 relevant to AY 2012-13 was Rs. 2.11 crore whereas the revenue for the F.Y 2012-13 corresponding to the AY 2013-14 relevant to the A.Y. 2014-15 the revenue decreased to Rs. 83 lakhs and therefore at that particular point of time, the appellant was of the opinion that no further benefit of the expenses incurred in the FY 2011-12 and 2012-13 would arise to the appellant and hence, the entire amount of prepaid expenses were debited to the P & L a/c in the year under consideration. First of all, I do not agree with the above contention of the appellant because I do not find that the distribution, travelling, salary and wages expenses could give the appellant enduring benefits and since the appellant is not in the first year of its business and following the mercantile system of accounting, cannot book expenses on its whims and fancies.”*

4. Thereafter, the Id. CIT(A) has distinguished the case laws relied upon by the assessee and had dismissed the appeal upholding the order of the Id. A.O. sustaining the addition of Rs. 1.90 crores. That, as evident from para 5 and 6 of the Id. CIT(A)'s order, he did not agree with the assessee that these expenses were supposed to give enduring benefits to the assessee. It was observed by the Id. CIT(A) that such expenses like distribution, travelling, salary and wages cannot give the assessee enduring benefits and since the assessee is not in the first year of its business and following the mercantile system of accounting, cannot book the expenses on its whims and fancies. Moreover these expenses related to A.Y. 2012-13 and 2013-14. In this regard the assessee submitted as follows:

*“5. As explained in the enclosed note these expenses were incurred in FY 11-12 and 12-13 and during that respective financial year it was not debited to P & L account as these expenses were capitalized for a temporary period as prepaid expenses were capitalised for a asset. Subsequently this prepaid expenses were transferred to respective expenses account in FY 2013-14. Thus, if we look into the impact in totally for three years period from 1<sup>st</sup> April 2011 to 31<sup>st</sup> March 2014, then it would be found that the company has not deprived the revenue by debiting the P & L account with any additional expenses. For the three years period the accounting entries passed by the company can be considered revenue neutral. Further as explained above the deferment of expenses to a subsequent year is a perfect accounting practice acceptable under Indian Income-tax Act. In fact, if the company would have not prepaid expenses incurred in FY 2011-12 & 2012-13 and transferred to prepaid expenses then the auditor of the company would have qualified the report as the Indian accounting standard prescribes that expenditures should match the revenue of particular year under the matching principal. This is because the expenses of Rs. 1,90,54,166/- were not just incurred for the income for FY 2011-12 and 2012-13 but were incurred to receive the benefit for future year.*

5. The assessee therefore has stated that these expenses were incurred in FY 2011-12 and 2012-13 and during that respective financial years, these expenses were not debited to P & L account as these expenses were capitalised for a temporary period as pre-paid expenses were capitalized for assets. Subsequently, these pre-paid expenses were transferred to respective expenses account for F.Y. 2013-14 relevant to A.Y. 2014-15. Now, the assessee is claiming that the impact in totality for three years period from 1-4-2011 to 31-3-2014, it would be found that the company has not deprived the revenue by debiting P & L account with any additional expenses. In fact, three years period accounting entries passed by the assessee are revenue neutral. These facts need detailed factual verification and adjudication on merits as per law. In fact, the A.O should verify in which year these expenses pertains to for providing actual effect for purposes of taxation as per law. The Id. D.R also conceded that these need to be freshly examined at the Assessing Officer level.

6. Having considered the facts and circumstances in this case and the submissions of the parties before us, we set aside the order of the Id. CIT(A) and remand the matter to the file of the Id. A.O for re-adjudication as per law complying with the principles of natural justice and as per our observations made hereinbefore.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on this 20<sup>th</sup> September 2022.

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

sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
JUDICIAL MEMBER

Pune; Dated, this 20<sup>th</sup> day of September 2022  
Ankam

**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The Pr. CIT- 1, Pune .
4. The CIT(A)-1 Pune
5. The D.R. ITAT 'A' Bench Pune.
6. Guard File

BY ORDER,

Sr. Private Secretary  
ITAT, Pune

		Date	
1	Draft dictated on	20-09-2022	Sr.PS
2	Draft placed before author	20-09-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	20-09-2022	Sr.PS/PS
7	Date of uploading of order	20-09-2022	Sr.PS/PS
8	File sent to Bench Clerk	<a href="#"><u>20-09-2022</u></a>	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		