

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'F' BENCH
MUMBAI**

**BEFORE: SHRI M.BALAGANESH, ACCOUNTANT MEMBER
&**

SMT KAVITHA RAJAGOPAL, JUDICIAL MEMBER

**ITA No.1876/Mum/2022
(Assessment Year :2014-15)**

M/s. Mahindra Two Wheelers Limited CTS 1556, Mahindra Towers Pandurang Butkar Marg P.K.Kurne Chowk Worli, Mumbai – 400 018	Vs.	The Assistant Commissioner of Income Tax, Circle- 7(1)(1), Mumbai 6 th Floor, Room No.670B Aayakar Bhawan Maharishi Karve Road Mumbai – 400 020
PAN/GIR No.AAFCM6870J		
(Appellant)	..	(Respondent)

Assessee by	Shri Viral Shah
Revenue by	Shri Ratnakar Shelke
Date of Hearing	05/09/2022
Date of Pronouncement	30/09/2022

आदेश / O R D E R

PER M. BALAGANESH (A.M):

This appeal in ITA No.1876/Mum/2022 for A.Y.2014-15 arises out of the order by the Id. Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC) in appeal No.CIT(A)-13, Mumbai/10687/2016-17 dated 30/05/2022 (Id. CIT(A) in short) against the order of assessment passed **u/s.143(3)** of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 13/12/2016 by the Id. ACIT CIR 7(2)(1), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in confirming the disallowance made on account of provision for service coupon in the sum of Rs 81,84,727/- treating it as a contingent liability, in the facts and circumstances of the case.

3. We have heard the rival submissions and perused the materials available on record. We find that the assessee is engaged in the business of manufacturing and selling motorized two wheelers. The return of income for the Asst Year 2014-15 was filed by the assessee company on 28/11/2014 declaring total loss of Rs 455,79,18,161/-. The Id. AO observed that the assessee had made provision for warranty of Rs 1,42,25,900/- and provision for free service coupons of Rs 81,84,727/- and claimed the same as deduction in the return of income. The assessee filed its replies in justification of the claim of deduction together with the manner of making provisions vide letters dated 04/08/2016 and 09/12/2016. In the opinion of the Id. AO, the said provisions are contingent in nature and would fall under the category of provisions made for unascertained liabilities. The Id. AO observed that these provisions were not actually paid by the assessee company on or before the due date of filing the return of income ; that the assessee could not prove the business expediency of making the provisions and that the provisions were not made based on any actuarial valuation report. Accordingly, the Id. AO disallowed the same while completing the assessment.

3.1. The assessee contended that the aforesaid provisions represent ascertained liability and were made in the regular course of its business. The assessee during the course of assessment proceedings had submitted that the said provisions were made on scientific empirical basis and hence to be construed as wholly and exclusively for the purpose of its business.

We find that the Id. CIT(A) had deleted the disallowance made on account of provision for warranty. Against this, the Id. DR stated that the revenue is not in appeal before us. Hence we confine our discussions only with regard to provision for free service coupons. The assessee explained the purpose of making provision for free service coupons as under:-

Free Service Coupons	Amount (in Rs.)
Total Expected Cost	146,987,077
Less : Booking	103,893,887
Net	43,093,190
Already Provided up to March 2013 (Opening provision)	34,908,463
Net Provision required	8,184,727

3.2. We find that the assessee had duly furnished the workings for arriving at the provision for free service coupons figure before the lower authorities, which is admittedly based on the past trend of claims made in the last 5 years and also based on the occurrence rate i.e on the basis of percentage of coupons surrendered by the customers vis a vis the coupons issued to the customers. This is certainly scientific method of determining the provisions as it is part and parcel of the sales obligation itself which was committed by the assessee at the time of making the sales to the customers. We find that the provision made for warranty by the assessee is also part of the sales obligation which was duly accepted

by the Id. CIT(A). When similar provision has been made for free service coupons , which were admittedly issued to the customers at the time of sale itself as stated supra, we do not find any justifiable reason for not accepting the said provision as an allowable expenditure. We find that the workings for making the provision for free service coupons are duly placed on record and no defects in the said workings were found by the lower authorities. We further find that all the case laws relied upon by the Id. CIT(A) are factually distinguishable in view of the fact that in all those cases, the workings on scientific basis were not provided by those assessees. Hence reliance placed on those cases would not advance the case of the revenue.

3.3. In view of the same, we direct the Id. AO to delete the disallowance made on account of provision for free service coupons in the instant case. Accordingly, the ground raised by the assessee is allowed.

4. In the result, the appeal of the assessee is allowed.

Order pronounced on 30/09/2022 by way of proper mentioning in the notice board.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Mumbai; Dated 30/09/2022
KARUNA, *sr.ps*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary / Asstt. Registrar)
ITAT, Mumbai