

IN THE INCOME TAX APPELLATE TRIBUNAL

PANAJI 'SMC' BENCH : PANAJI

(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA.No.403/PAN/2018
Assessment Year 2011-12

M/s. Sangamesh Sugars Limited, Represented by Chief Executive Officer, At Post : Naganur, Taluka : Athani, Dist. Belagavi. PIN - 591 240 PAN AANCS4976M	vs.,	The Income Tax Officer, Ward-1(4), Feroz Building, Opp. Civil Hospital, Dr. B.R. Ambedkar Road, Belagavi - PIN 590 001. Karnataka.
(Appellant)		(Respondent)

ITA.No.404/PAN/2018
Assessment Year 2012-2013

M/s. Sangamesh Sugars Limited, Represented by Chief Executive Officer, At Post : Naganur, Taluka : Athani, Dist. Belagavi. PIN - 591 240 PAN AANCS4976M	vs.,	The Income Tax Officer, Ward-1(1), Feroz Building, Opp. Civil Hospital, Dr. B.R. Ambedkar Road, Belagavi - PIN 590 001. Karnataka.
(Appellant)		(Respondent)

For Assessee :	Shri Omkar Godbole, C.A.
For Revenue :	Shri N. Shrikant

Date of Hearing :	16.01.2023
Date of Pronouncement :	25.01.2023

ORDER

These assessee's twin appeals for assessment years 2011-12 & 2012-13, arise against the CIT(A), Belagavi's separate orders, both dated 18.06.2018, passed in case ITA.No.04/BGV/2016-17 and in case No.339/BGM/2014-15, in proceedings u/s. 143(3) r.w.s. 147 of the Income Tax Act,

1961 and in proceedings u/s. 143(3) of the Income Tax Act, 1961, (in short "the Act") assessment year-wise, respectively.

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that the assessee's identical sole substantive grievance raised in both these appeals seeks to reverse the learned lower authorities' action adding interest income of Rs.3,18,602/- and Rs.11,71,029/- [received on term deposits] during the course of assessment and upheld in the CIT(A)'s order(s) as follows :

2. The assessee company filed its e-return of income for A.Y.2011-12 on 21/09/2011 declaring net loss of Rs. 5,34,872/-. The assessee company has set off interest income against preoperative expenses and depreciation. As it is not admissible before the commencement of the business or manufacturing activities, the income for the assessment year under consideration had escaped assessment. Hence, the AO had reopened the assessment u/s. 147 of the Income Tax Act, and disallowed the set off interest income of Rs.3,18,062/- and brought it tax.

3. Aggrieved by the order of the Assessing Officer, the appellant filed the present appeal on various grounds. The grounds of appeal raised by the appellant are reproduced as under:

1. "The Ld. Assessing Officer has erred in law as well as on facts by treating interest income under "Income from other sources" instead of income from Business.
2. The Ld. Assessing Officer has erred in law as well as on facts in disallowing the expenditure claimed in profit and loss account against the income earned.
3. The Appellant craves leave to add, modify, alter or withdraw any grounds of appeal and prays for allowing this appeal."

M/s. Sangamesh Sugars Limited, Naganur PK, Athani
ITA No.04/BGV/2016-17, A.Y. 2011-12

4. The appeal was posted for hearing on 08/12/2017 and 15/06/2018. In response to the notice issued by this office Shri. Omkar Godbole, AR of the appellant attended the hearing on behalf of the appellant. He has also filed the written submissions. The case has been heard.

5. I have carefully considered the facts of the case, the submissions made by the appellant and perused the assessment order.

6. Sangamesh Sugars Limited is a domestic company incorporated on 10/07/2009 under Companies Act, 1956. The company was incorporated with an objective to implement a project of sugar factory and co-generation of plant at village Naganur PK in Athani taluka of Belagavi district. However, during the previous year (F.Y: 2010-11) no manufacturing activities had taken place as the factory was still under erection stage. There was no production of sugar and no revenue from the operations during the year under consideration. Thus the business was not commenced.

7. The deduction for preliminary and preoperative expenses prior to commencement of business cannot be set off against any other income. The assessee can capitalize the preoperative expenses in the year of commencement of business or amortize the preliminary expenses u/s. 35D once the business commences. Since, no manufacturing activities were commenced in the previous year, the assessee is not entitled to set off preoperative expenses against the income from other sources.

8. Considering the facts, the AO's action in this case is in accordance with law. Hence, the addition made by the AO is confirmed and the appeal of the assessee is dismissed.

3. I have given my thoughtful consideration to vehement rival stands and find no merit in the assessee's arguments. This is for the precise reason in light of the CIT(A)'s detailed discussion extracted in the preceding paragraph that the impugned deduction for preliminary and pre-operative expenses prior to commencement of the assessee's business could hardly be given to be set-off against any other income. Learned CIT(A) has already concluded that the assessee could very well amortize or capitalize the impugned expenditure since it had not even commenced its manufacturing activities in both these financial years. Faced with the situation, I find no merit in assessee's instant substantive ground. The same is rejected therefore. Ordered accordingly.

4. These assessee's twin appeals are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 25.01.2023.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 25th January, 2023

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Ld. CIT(A) concerned.
4.	The CIT concerned
5.	D.R. ITAT, Panaji 'SMC' Bench, Panaji
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,
Pune.