

**IN THE INCOME TAX APPELLATE TRIBUNAL “RANCHI” BENCH: RANCHI
VIRTUAL HEARING AT KOLKATA**
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 53/RAN/2022
Assessment Year : 2015-16

DCIT, Central Circle-1, Ranchi	Vs.	Jharkhand State Beverages Corporation Ltd. (PAN: AACCCJ 5622 N)
Appellant		Respondent

I.T.A. No. 32/RAN/2022
Assessment Year : 2015-16

Jharkhand State Beverages Corporation Ltd. (PAN: AACCCJ 5622 N)	Vs.	DCIT, Central Circle-1, Ranchi
Appellant		Respondent

Date of Hearing /	16.01.2023
Date of Pronouncement/	25.01.2023
For the Appellant/	Shri S. K. Bathal, A.R
For the Respondent/	Rinku Singh, CITDR

ORDER

Per Rajesh Kumar, AM:

This is the appeal preferred by the revenue and the cross appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax(Appeals)-Patna-3, [hereinafter referred to as ‘Ld.CIT(A)’] dated 31.03.2022 for the assessment year 2015-16.

2. First we shall adjudicate assessee’s appeal in ITA No. 32/Ran/2022 for AY 2015-16. The assessee has challenged the order of Ld. CIT(A) wherein the Ld. CIT(A) has partly sustained the addition by applying the margin of 10% of the total sales as against 15% applied by the AO whereas the Revenue is in appeal before us

challenging the said part deletion of addition by Id CIT(A) by reducing the profit margin from 15% to 10% of the sales.

3. Facts in brief are that the assessee is only a Government corporation engaged in the business of distilling, manufacturing, procurement, import, export and supply of all kinds of alcoholic spirits, including IMFL, FMFL as well as country made liquor. The assessee has shown in its tax audit report a net profit of 4.26% which is inclusive of interest income. After excluding the interest income, the net profit comes to 3.54% which according to AO much less than the profit prevalent in the industry. According to AO the margin should be 8% to 10% on bulk sales and 17% to 20% of the retail sales but the assessee has shown very low profit and accordingly applied net profit 15% on the gross turnover and assessed the income accordingly however the profit declared by the assessee was allowed to be reduced therefrom.

4. In the appellate proceedings, the Ld. CIT(A) partly allowed the appeal of the assessee by directing to reduce the GP rate applied by the AO from 15% to 10% thereby partly allowing the appeal of the assessee.

5. During the course of hearing, the Ld. Counsel for the assessee brought to our notice that certificate issued by the Excise Commissioner wherein it is stated that the assessee corporation is a wholly owned body of government of Jharkhand and it was engaged in doing wholesale marketing of IMFL/country liquor in terms of mandate given by the State vide notification dated 07.10.2010. The Ld. A.R contended that as per the mandate of Government of Jharkhand, the assessee can charge Profit rate of 5% of wholesale supply of liquor in the state of Jharkhand and therefore submitted that both the authorities below have failed to appreciate this fact correctly which has resulted into creation of the huge demand on the assessee. The Ld. A.R submitted that the order was passed ex-parte before the AO and therefore the said documents could not be submitted and as such the AO assessed the income of the assessee by applying net margin of 15% which was reduced to 10% by the First appellate authority. The Ld. A.R. contended that since the assessee is under obligation not to

charge more than 5% on the MRP. Therefore the Id. A.R submitted that the addition made by the AO as partly sustained by the Ld. CIT(A) is without a valid and cogent reasons and grounds and may kindly be deleted by allowing the appeal of the assessee.

6. The Id. D.R on the other hand relied heavily on the order of authorities below.

7. We have heard rival submissions and perused the material on record carefully. The undisputed facts are that the assessee is engaged in the business of procurement and supply of IMFL, FMFL as well as country made liquor and other similar products and as per Government mandate the assessee is authorized to charge 5% on MRP on the wholesales effected in the state of Jharkhand. We note that the assessee during the year was engaged in making wholesale of IMFL, FMFL and country made liquor and similar items and used to charge 5% only in terms of mandate of Government of Jharkhand. During the course of hearing, the Ld. A.R produced before us the certificate issued by the Excise Commissioner to the effect that the assessee has only done wholesale marketing of IMFL/FMFL/country liquor in the state of Jharkhand which is extracted below:

“This is to certify that Jharkhand State Beverages Corporation Limited (JSBCL)- A wholly owned Government of Jharkhand undertaking did only wholesale marketing of IMFL/Country liquor in the State of Jharkhand during FY 2014-15 in terms of Mandate given by the State Government to JSBCL vide Gazette Notification dated 07.10.2010.”

Once this is accepted that the assessee was engaged in making wholesale marketing of IMFL/FMFL/country made liquor than the revenue as disclosed by the assessee has to be accepted as the application of net profit rate of 15% by the AO as well as subsequent reduction by 10% by the Ld. CIT(A) are wrong and against the facts on record. We note that the assessee is a Government body engaged in wholesale marketing of IMFL/FMFL/country liquor in terms of Govt. direction and charging margin 5% as has been prescribed by the State Government. Therefore, we are not in a position to accept the conclusion as recorded by the Ld. CIT(A) accordingly we set

aside the order of Ld. CIT(A) and direct the AO to accept the income of the assessee as returned. Accordingly we allow the appeal of the assessee.

8. Now we shall take in revenue's appeal in ITA No. 53/Ran/2022 for AY 2015-16. Since we have allowed the appeal of the assessee in ITA No. 32/Ran/2022 (supra) the appeal filed by the revenue challenging the part relief allowed by the Ld. CIT(A) by reducing the rate of 15% to 10% become infructuous and accordingly dismissed.

9. In the result, the appeal of the assessee is allowed and the appeal of the revenue is dismissed.

Order is pronounced in the open court on 25th January, 2023

Sd/-

(Sonjoy Sarma)
Judicial Member

Sd/-

(Rajesh Kumar/)
Accountant Member

Dated: 25th January, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- DCIT, Central Circle-1, Ranchi
2. Respondent – Jharkhand State Beverages Corporation Ltd., T.A. Building, near Gol Chakkar Durwa, Ranchi, Jharkhand-834004
3. Ld. CIT(A)- Patna-3
4. Ld. PCIT- , Ranchi
5. DR, Ranchi Bench, Ranchi.

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata