

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

**BEFORE: SHRI VIKAS AWASTHY, JUDICIAL MEMBER**

**&**

**MS. PADMAVATHY S., ACCOUNTANT MEMBER**

**ITA No.514 & 515/Mum/2023  
(Assessment Year :2016-17 & 2015-16)**

Mahindra Two Wheelers Limited CTS 1556, Mahindra Towers, Panduranj Butkar Marg, P.K. Kurne Chowk-,Worli-400018, Mumbai.	Vs.	The Deputy Commissioner of Income Tax, Circle-7(1)(1) Mumbai.
<b>PAN/GIR No.AAFCM 6870 A</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Viral Shah
Revenue by	Ms. Mahita Nair, Sr. AR
<b>Date of Hearing</b>	<b>01/05/2023</b>
<b>Date of Pronouncement</b>	<b>09/05/2023</b>

**आदेश / ORDER**

**PER PADMAVATHY S. (A.M):**

These are two appeal against the order of Id. CIT(A), National Faceless Appeal Centre, Delhi both dated 03.01.2023 for the assessment year. 2016-17 & 2015-16 respectively.

2. The issues contended are common in both the appeal and hence they were heard together and disposed off through this common order.

3. The assessee has raised following grounds of appeal:-

**ITA No. 514-Mum-2023 for A.Y. 2016-17**

*"1. On the facts and circumstances of the case and in law, the Id. CIT(A) erred in not following the decision of the jurisdictional Hon'ble ITAT in the Appellant's own case for AY 2014-15, wherein on similar facts of the case, the issue was decided in favour of the assessee.*

*2. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in confirming the disallowance made by the Id. AO amount to Rs. 13,10,373/- for provisions for serve coupon on the premise that it is a contingent and uncertain liability, allegedly not having been worked out on a scientific basis."*

**ITA No. 515-Mum-2023 for AY 2015-16**

*"1. On the facts and circumstances of the case and in law, the Id. CIT(A) erred in not following the decision of the jurisdictional Hon'ble ITAT in the Appellant's own case for AY 2014-15, wherein on similar facts of the case, the issue was decided in favour of the assessee.*

*2. On the facts and in the circumstances of the case and in law, the Id. CIT(A) erred in confirming the disallowance made by the Id. AO amount to Rs. 62,12000/- for provisions for serve coupon on the premise that it is a contingent and uncertain liability, allegedly not having been worked out on a scientific basis."*

4. The only issue contended in these appeals is the disallowance made by the lower authorities towards provision for service coupon on the ground that it is contingent and uncertain liability. Brief facts of the case for A.Y. 2016-17 is that the assessee filed its return of income declaring total loss of Rs. 625,45,70,016/-. The case was selected for scrutiny under cash and the statutory notice duly served on the assessee. During the course of assessment proceedings, the Assessing Officer noticed from the financials filed by the assessee that the assessee has shown long term provision of Rs.3,45,17,000/- towards provision for warranting and free coupon service. The Assessing Officer proposed to

disallow the said amount treating as the same as contingent and uncertain liability and accordingly, called on the assessee to provide justification. After considering the submissions of the assessee, the Assessing Officer disallowed the said provision by stating that the assessee had not submitted the expert report to prove the business extangency of the expenditure and that the provision remains unpaid until due date for filing the return of income.

5. Aggrieved the assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) gave relief to the assessee with regard to the provisions for warranty by relying on the decision of Coordinate Bench of the Tribunal in the case of assessee's parent company Mahindra & Mahindra Ltd. vs. DCIT (2020) 117 Taxmann.com 578 (Mumbai ITAT). With regard to provision of service coupon amounting to Rs. 13,10,373/- the Id. CIT(A) held that the provision for service coupon is made based on a trend of the last 5 years and therefore, the Id. CIT(A) was of the view that the provision is not based on the scientific method. The Id. CIT(A) further held that the provisions of service coupon is otherwise the contingent liability and therefore upheld the disallowance made by the Assessing Officer. Aggrieved the assessee is in appeal before the Tribunal.

6. During the course of hearing, the Id. AR submitted that the issue is covered in favour of the assessee in assessee's own case for assessment year 2014-15.

7. The Id. Dr on the other hand relied on the orders of the lower authorities.

8. We have heard both the parties and perused the material available on record. We notice that a similar issue is considered by the Coordinate Bench in assessee's own case where it is held that:-

" 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:-

<b>Free Service Coupon</b>	<b>Amount (in Rs.)</b>
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."*

9. The Coordinate Bench in assessee's own case (supra) has held that making provision based on trend of claims made in the last 5 years and also based on the occurrence rate on the basis of percentage of coupon what is surrendered by the customers to be scientific method pertaining the provision and accordingly allowed the claim of the assessee. It is also noticed that the assessee has submitted the workings for arriving at the provisions before the lower authorities similar to A.Y. 2014-15. Considering these facts and respectfully following the above decision we direct the AO to delete the disallowance made on account of provision for free service coupon for both A.Ys. 2015-16 & 2016-17.

**10. In the result, the appeals of the assessee are allowed.**

Order pronounced on 09/05 /2023 in the open court.

**Sd/-**  
**(VIKAS AWASTHY)**  
JUDICIAL MEMBER

**Sd/-**  
**(PADMAVATHY S.)**  
ACCOUNTANT MEMBER

Mumbai; Dated 09/05/2023  
Santosh, 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

		Date	Initial	
1.	Draft dictated on	02/05/2022		Sr.PS
2.	Draft placed before author	/05/2023		Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS	09/05/2023		Sr.PS/PS
6.	Kept for pronouncement on	09/05/2023		Sr.PS
7.	File sent to the Bench Clerk	09/05/20236		Sr.PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed	Yes		