

आयकर अपीलीय अधिकरण " बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.413/PUN/2023
निर्धारण वर्ष / Assessment Year : 2014-15

Shri Sant Damji Sahakari Sakhar Karkhana Ltd., A/p. Mangalwedha, Tal.Mangalwedha, Dist.Solapur – 413305. PAN: AAATS 5265 K	Vs	The Income Tax Officer, Ward-2(3), Solapur.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Hanmant Dhalve – AR
Revenue by	Shri M.G.Jasnani – DR
Date of hearing	16/05/2023
Date of pronouncement	16/06/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee directed against the order of Id.Commissioner of Income of Tax(Appeals)[NFAC] dated 15.03.2023 emanating from Assessing Officer's order under section 143(3) of the Act dated 15.12.2016 for the A.Y. 2014-15. The Assessee has raised the following grounds of appeal as under :

"1. On the fact and in the circumstance of the case and in law of the learned National Faceless Appeal Centre (NFAC) Commissioner of Income Tax (Appeals), has erred in disallowing

and adding back an amount of Rs.5,76,450/- on account of VSI Contribution.

2. The appellant craves for the leave, add, alter, amend, modify and delete any or all the above grounds of appeals before or at the time of hearing.”

2. The Ground No.1 is related to amount of Rs.5,76,450/- contributed to VSI i.e. Vasandada Sugar Institute. The said amount was not actually paid, but there was only provision. The ld.AO held that under section 35(1)(ii) of the Act, the amount has to be actually paid. The ld.AR submitted that the said issue is also covered by the ITAT Pune Bench’s decision.

3. The fact in case is that the amount was not actually paid, but there was only provision. The relevant section 35(1)(ii) is reproduced here asunder:

“35. (1) In respect of expenditure on scientific research, the following deductions shall be allowed—

(ii) an amount equal to one and three-fourth times of any sum paid to a research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research :

Provided *that such association, university, college or other institution for the purposes of this clause—*

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government;”

3.1 It is observed that as per the above section, amount has to be actually paid. However, in the present case, it is an admitted fact that there was only provision.

4. The Hon’ble Bombay High Court in the decision of CIT Vs. Jai Ambika Sahakari Sakhar Karkhana Ltd., Tax Appeal No.17 of 2008 whereas the question of law on which the admission of the appeal is sought, held as under:

“Question:

Whether the amount paid/provided in the books of account by the Assessee for contribution to Vasant dada Sugar Institute, a recognized research institute, can be allowed as deduction under section 35(1) of the Income Tax Act, 1961 as the amount has only been provided in the accounts but has not actually been paid in the relevant Assessment Year?

8. *The definition of the word "Paid" contained in section 43(2) of the Act takes into account not only the amount which is actually paid by the assessee to a research institute but also takes into account the liability incurred and provided in the books of account in case mercantile system of accounting is followed. Consequently, the amount which has been provided for as a liability to be paid to a scientific research institute by the assessee is to be allowed as a deduction under section 35 of i.t.act in a case where the assessee maintains its accounts on mercantile basis.*

9. *In the present case, it is not in dispute that the assessee maintains the accounts on a mercantile basis. Hence, even a book entry made by the assessee in its books of accounts as a liability for making contribution to VSI, a Research Institute, would be covered by section 35(1)(ii) of the I.T. Act. In our view, the Tribunal committed no error in holding that the assessee was entitled to deduction under section 35(1)(ii) of the I.T.Act.”*

10. *There is no merit in the appeal, which is hereby dismissed.”*

5. Respectfully following the above decision of the Hon’ble Bombay High Court, the expenditure is allowed to the assessee, therefore, the Ground No.1 raised by the assessee is allowed.

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

Order pronounced in the open Court on 16th June, 2023.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 16th June, 2023/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच,
पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.