

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.579/PUN/2023
निर्धारण वर्ष / Assessment Year : 2009-10

Shri Vitthal SSK Ltd., A/p. Gurusale, Tal. Pandarpur, Dist. Solapur- 413304. PAN : AAAAS3892H	Vs.	DCIT, Circle-1, Solapur.
Appellant		Respondent

Assessee by : None
Revenue by : Shri M. G. Jasnani
Date of hearing : 12.06.2023
Date of pronouncement : 04.07.2023

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of the National Faceless Appeal Centre, Delhi ['NFAC'] dated 14.03.2023 for the assessment year 2009-10.

2. Briefly, the facts of the case are that the appellant is a Co-operative Society engaged in the business of running of sugarcane

factory. The Return of Income for the assessment year 2009-10 was filed on 29.09.2009 and the same was revised on 08.06.2010 at Rs.Nil income after claiming set off of the brought forward losses. Against the said return of income, the assessment was completed by the Dy. Commissioner of Income Tax, Circle-1, Solapur ('the Assessing Officer') vide order dated 16.12.2011 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.115,62,56,550/-. While doing so, the Assessing Officer made following disallowances :-

01	<i>Disallowance u/s 37(1) excessive and unreasonable cane purchase price paid for purchase of Sugarcane</i>	114,74,95,731/-
02	<i>Addition on account of Sale of Sugar at concessional rate</i>	69,86,180/-
03	<i>VSI contribution</i>	17,74,638/-

3. Being aggrieved by the above disallowances, an appeal was filed before the NFAC, who vide impugned order deleted the addition on account of excess and unreasonable sugarcane purchase price of Rs.114,74,95,731/- relying on the Budget Speech of Hon'ble Finance Minister.

As regards to the balance additions on account of sale of sugar at concessional rate and VSI contribution, the Id. CIT(A) without discussing the facts and applicable law merely confirmed the additions by holding that substantially relief was granted in respect of excessive and unreasonable sugarcane purchase price.

4. Being aggrieved, the appellant is in appeal before us in the present appeal.

5. When the appeal was called on, none appeared on behalf of the assessee despite due service of notice of hearing. Therefore, we proceed to decide the issue on merits considering the material on record and after hearing the Id. Sr. DR.

6. We heard the Id. Sr. DR and perused the material on record. We highly depreciable the approach adopted by the NFAC merely because he granted relief in respect of one item of additions, does not mean that he can deny the justice in respect of balance additions/grounds of appeal raised before him. The approach adopted by the NFAC is illegal and unreasonable and cannot be sustained in the eyes of law. Therefore, the order of the NFAC is

set-aside for *de novo* adjudication of the issues in appeal afresh after affording a reasonable opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced on this 04th day of July, 2023.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 04th July, 2023.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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