

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member**

**Ms. Astha Chandra, Judicial member**

**ITA No. 2301/Del/2018 : Asstt. Year: 2013-14**

**ITA No. 6377/Del/2018 : Asstt. Year: 2014-15**

DCIT, Circle-11(1), New Delhi	Vs	Haryana City Gas Distribution Pvt. Ltd., E-71, SKN House, First Floor, South Extension, New Delhi
(APPELLANT)		(RESPONDENT)
<b>PAN No. AABCH2259N</b>		

**ITA No. 8013/Del/2019 : Asstt. Year: 2015-16**

ACIT, Circle-11(2), New Delhi	Vs	Haryana City Gas Distribution Ltd., A-107, Sushant Lok, Phase-I, Gurgaon, Haryana-122002
(APPELLANT)		(RESPONDENT)
<b>PAN No. AABCH2259N</b>		

**ITA No. 1645/Del/2020 : Asstt. Year: 2016-17**

DCIT, Circle-10(1), New Delhi	Vs	Haryana City Gas Distribution Ltd., A-107, Sushant Lok, Phase-I, Gurgaon, Haryana-122002
(APPELLANT)		(RESPONDENT)
<b>PAN No. AABCH2259N</b>		

**Assessee by : Sh. Saurav Rohatgi, CA**

**Revenue by : Sh. Vivek Kr. Upadhyay, Sr. DR**

**Date of Hearing: 29.08.2023**

**Date of Pronouncement: 07.11.2023**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeals have been filed by Revenue against the orders of Id. CIT(A)-4, New Delhi dated 24.01.2018, 16.07.2018, 31.07.2019 and 04.02.2020.

2. In ITA No. 2301/Del/2018, following grounds have been raised by the Revenue:

*"1. Whether Id. CIT(A) has not erred in deleting the addition on account of unaccounted sale to the tune of Rs. 2,10,11,755/- as the density of the item used of the CNG is 0.76338 kgs per SCM which is explicitly evident from the data obtained by AO during the course of assessment proceedings.*

*2. Whether Id. CIT(A) has not erred in deleting the difference of 65,605 kgs between sales and purchase by holding it to be process/transition loss whereas it was not disclosed separately in the books of accounts."*

3. In ITA No. 6377/Del/2018, following grounds have been raised by the Revenue:

*"1. Whether the Id. CIT(A) has erred in deleting the addition of Rs. 9,63,209/- made by the AO on account of amount claimed as Misc. Expenses Written off, ignoring the fact that assessee failed to establish that the said amount was in the nature of debt and had been taken into account as income related to any previous years.*

*2. Whether the Id. CIT(A) has erred in deleting the addition of Rs. 11,25,24,605/- made by the AO on account on unaccounted sales unearthed by the AO from difference in quantity of sales of gas as recorded by the assessee in its books of accounts and the quantity of sales deduced by applying the conversion rate of the CNG (i.e.0. 76338 kgs per SCM evident from data/information gathered during the course of the assessment proceedings) to the purchases made in SCM.*

*2(a) Whether the Id. CIT(A) was justified in holding that the entire amount of purchases and sales should be taken into account in working out the difference in the quantum of sales in Kilograms, not appreciating the fact the discrepancy was attributable to the transactions where CNG was purchased in SCM but sold in Kgs and therefore transactions involving PNG and/or the transactions where both purchases and corresponding sales are effected in SCM have to be excluded for the purpose of computing*

*the difference in sales quantity vis a vis purchases quantity.*

*2(b) Whether the Ld CIT(A) has erred in applying the conversion rate of 0.75 Kg per SCM in computing the quantum of sale of CNG by observing that the said conversion rate is as per the invoices issued by the IGL to the assessee whereas no such conversion rate is found mentioned on the face of the invoice(s) from IGL as produced by the assessee during the course of the assessment proceedings.*

*3. (a) Without prejudice to the foregoing, whether the Ld. CIT(A) has erred in holding that the difference/discrepancy of 650005 Kgs in the quantity of sales as discovered in the details of sales & purchases made by the assessee is attributable to process/transition loss and therefore no addition on account of unaccounted sales in respect of the said difference was called for, ignoring the fact that the difference was neither disclosed nor accounted for separately in the books of accounts.*

*3. (b) Without prejudice to the foregoing, whether the Ld. CIT(A) has erred in holding that the difference/discrepancy of 1173262 Kgs in the quantity of sales as discovered in the details of sales & purchases made by the assessee is attributable to self-consumption and therefore no addition on account of unaccounted sales in respect of the said difference was called for, ignoring the fact that the difference was neither disclosed nor accounted for separately in the books of accounts.*

*4. Whether the Ld. CIT(A) has erred correct on facts and circumstances on deleting the addition made by the AO on account rate deposits of employees contribution towards EPF/ESIC under section 36(1)(va) of the Income tax act, 1961?"*

4. In ITA No. 8013/Del/2019, following grounds have been raised by the Revenue:

*"1. Whether the CIT(A) has not erred in deleting the addition on account of unaccounted sale to the tune of*

*Rs. 13,12,97,222/- as the density of the item used of the CNG is 0.76338 kgs per SCM which is explicitly evident from the data obtained by AO during assessment proceedings.*

*2. Whether CIT(A) has not erred in allowing 10,63,877 kgs of CNG gas by holding it to be process/transition loss whereas it was not disclosed separately in the books of accounts."*

*3. Whether CIT(A) has not erred in allowing 28,25,113 kgs of CNG gas by holding it to be self consumption whereas it was not disclosed separately in the books of accounts."*

5. In ITA No. 1645/Del/2020, following grounds have been raised by the Revenue:

*"1. Whether Ld. CIT(A) has erred in deleting the addition on account of Misc. Written off to the tune of Rs.18,04,728/- as assessee did not establish whether has amount of debt written off was the part of income related to the previous years.*

*2. Whether Ld. CIT(A) has erred in deleting the addition on account of unaccounted sale to the tune of Rs.4,89,62,474/- as the density of the item used of the CNG is 0.76338 kgs per SCM which is explicitly evident from the data obtained by AO during the course of assessment proceedings.*

*3. Whether the Ld. CIT(A) has erred in deleting 937680 kgs by holding it to be process/transmission loss whereas it was not disclosed separately in the books of accounts."*

6. The assessee is a company which is engaged in the business of supplying natural gas and compressed natural gas through, pipeline, pumps to industrial, domestic and commercial customers. The assessee company makes purchases from Indian Gas Limited (IGL) which actually makes purchases from Gas Authority of India Limited (GAIL). Back to Back invoices,

substantiating the sales from GAIL to IGL to the assessee were furnished on record. It is seen that the supply made by IGL to the assessee is in Standard Cubic Meter, however, the assessee is selling the same to end customer in Kilograms as well as Standard Cubic Meter.

### **Genesis of the issue**

**The entire addition has been made owing to the difference in converting the Standard Cubic Meters (SCM) of the gas into kilograms.**

7. The AO on the information available on the portal of GAIL held that 1 SCM of Natural Gas is equivalent to 0.76338 Kgs of Compressed Natural Gas. On the same basis, the AO computed the reconciliation and recomputed the purchase made by the assessee in SCM being 4,40,07,309 SCM into kgs being 3,35,94,299 Kgs at the conversion rate of 1 SCM = 0.76338 Kgs. The AO then compared the said purchases in KGS with the sales made by the assessee company amounting to 3,29,09,877 Kgs. The AO then held that since the assessee company does not have any opening or closing stock, there is an unaccounted sale of 6,84,422 Kgs being difference in the purchases and sales in Kgs. The AO then computed the unaccounted sale by multiplying the aforesaid differential quantity with the sale price of Rs. 30.70 per Kg and made the addition amounting to Rs. 2,10,11,755/-. The AO in his order has mentioned that the said rate has been taken from the website of GAIL.

**Submissions of the assessee:**

8. We find before the Id. CIT(A), the assessee has submitted that the exchange rate as per the invoices issued by IGL to the assessee company is 0.75 Kgs per SCM and not 0.76338 Kgs per SCM. The assessee also submitted the invoices on record, highlighting and substantiating that the conversion rate of SCM into Kgs as per the invoices is 0.75 Kgs.

9. With regard to the said difference, the assessee submitted before the Id. CIT(A) that the same is of transmission/process loss, which is very common in the industry in which they are engaged. Further, the assessee compared its process loss ratio with that of IGL to prove the process loss and the sales after considering the process losses have been disclosed as disclosed and accepted by VAT authorities also.

**Findings of the Id. CIT(A):**

10. The Id. CIT(A) held that the AO placed his reliance on the website of GAIL without examining as to whether the density of gas is fixed @ 0.76338 kg/SCM for all purposes and for good. In view of the invoices/details/ documents available on record, the Id. CIT(A) held that the conversion rate for converting the purchases from SCM to Kgs should be taken at 0.75 Kg per SCM. After making the re-computation on the basis the conversion rate of 0.75 still a difference of 95,605 Kgs between in the Purchases 44007309 SCM x 0.75 33005482 kgs and Sales - and Sales - Purchases 32909877 kgs)

11. In view of this factual background, reliance placed by the AO on the website of GAIL without considering the details/information mentioned on the actual invoices was held to be unjustifiable by the Id. CIT(A). We find that the Id. CIT(A) has rightly computed the conversion of SCM into kgs and the transmission loss of 0.29% was held to be at par with industry standards. Rather, the transmission loss of 0.29% is much less than IGL, a major concern engaged in supply of compressed natural gas.

12. Hence, the adjudication of the Id. CIT(A) is hereby concurred with. In the result, the appeal of the Revenue on this ground is dismissed.

**ITA No.6377/Del/2018 : A.Y. 2014-15**

**ITA No.1645/Del/2020 : A.Y. 2016-17**

**Miscellaneous Expenses:**

13. With regard to the miscellaneous expenses, we find that these amounts have been disallowed by the Assessing Officer on the grounds that the assessee did not submit any justification and documentary evidences. The Id. CIT(A) granted relief on the grounds that the documents have been furnished before him and decided the issue following the order of the Id. CIT(A) in the earlier years. We find that no opportunity have been given to the Assessing Officer for examination of the evidences filed before the Id. CIT(A). Hence, in the interest of justice, we remand the matter to the file of the AO and direct the assessee to file all the documentary evidences relied upon for claim of

the miscellaneous expenses. In the result, the appeal of the Revenue on this ground is allowed for statistical purpose.

Order Pronounced in the Open Court on 07/11/2023.

Sd/-

**(Astha Chandra)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 07/11/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**