

आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : : NAGPUR

[VIRTUAL HEARING AT PUNE]

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

आयकर अपील सं. / ITA No.70/NAG/2020
निर्धारण वर्ष / Assessment Year : 2016-17

The Dy.Commissioner of Income Tax, Circle-2, Nagpur – 440001.	V s	M/s. Forest Development Corporation of Maharashtra Ltd., Plot No.359/B, FDCM BHAVAN, Hingana Road, Ambazri, Nagpur – 440001. PAN: AAACF2982K
Appellant / Revenue		Respondent / Assessee

Assessee by	Shri Indraneel Dani – AR
Revenue by	Shri Kailash Kanojiya – Sr.DR
Date of hearing	01/09/2023
Date of pronouncement	21/11/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Revenue against the order under section 250 of the Income Tax Act, of Id.CIT(A)-2, Nagpur dated 27.12.2019 for A.Y.2016-17 emanating from assessment order under section 143(3) of the Act, dated

24.12.2018. The grounds of appeal filed by the Revenue are as under :

“1. “On facts and in the circumstances of the case the ld. CIT(A) was justified in deleting the additions made by the AO amounting to Rs.3,17,46,000/- on account of prior period expenses not admissible u/s 37(1) of the I.T. Act, 1961 which mandates that only expenses are allowable u/s 37(1) of the Act which are incurred during the relevant previous year and expensed wholly and solely for the purpose of business.

2. Any other ground that may be raised during the proceedings.”

Findings & Analysis :

2. We have heard both the parties and perused the records. The Assessing Officer(AO) has made addition of Rs.53,36,57,476/- treating these amounts as prior period expenses. The Assessing Officer(AO) has held as under:

“The assessee has not given any specific and cogent reason as to how these expense did crystallize only during the assessment year 2016-17. It is also noted that any prior period expenses cannot be debited to the profit and loss account unless the assessee brings conclusive proof that these expenses only crystallized during the year.

3. Aggrieved by the order of the AO, the assessee filed appeal before the ld.CIT(A). The ld.CIT(A) allowed the assessee’s appeal in para 5.2.3 as under:

“5.2.3 The arguments of the Ld. Counsel are duly considered and it is found that they have merit in them. Thus, the Ld. AO is directed to delete the impugned addition of Rs.317.46 lacs which was claimed as ‘Prior Period Expenses’. The appellant is entitled to get

*the relief as the impugned addition is found to be **not** sustainable in the facts of the case and in law. **Ground no. 2 is, thus, allowed.***

4. The assessee has not explained before the AO that how the amount has crystallized during A.Y.2016-17. We have gone through the Annual Report filed by the assessee. However, it is observed that it is not coming out how the expenses were crystallized during the year. Even before the Id.CIT(A), assessee had not filed any document to demonstrate how the expenses were crystalised during the year. The assessee has merely explained the general concept that “in the year in which these trees, planted years before are removed, the proportionate plantation cost relating to the felled trees is may be capitalized an written off which forms part of the cost of goods sold.” Thus, even before the Id.CIT(A), assessee has merely explained the concept. However, no working has been filed by the assessee either before the Assessing Officer or Id.CIT(A). Even before us, no working has been filed to demonstrate how the expenditure has crystalised during the year.

5. It is a fact that assessee is following mercantile system of accounting. In mercantile system, deduction is allowable in the year in which liability accrues. The Hon'ble High Court of

Allahabad in the case of CIT VS. Ashok Iron and Steel Rolling Mill [1992] 199 ITR 815 (All) held as under :

“As mentioned above, in mercantile system, deduction can be made only in the year in which the liability to pay accrues; and it accrues only when the liability crystallises or becomes ascertained.”

6. Thus, it is a settled law that deduction can be allowed only when the liability to pay accrues or crystallises.

6.1 We have already stated that assessee has not submitted working to demonstrate how the liability has crystallised during the year. In these facts and circumstances, we deem it fit to set-aside the order of ld.CIT(A) to ld.CIT(A) for denovo adjudication. The assessee shall file all relevant details before the ld.CIT(A). Accordingly, grounds of appeal raised by the Revenue are allowed for statistical purpose.

7. In the result, appeal of the Revenue is allowed for statistical purpose.

Order pronounced in the open Court on 21st November, 2023.

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

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

पुणे / Pune; दिनांक / Dated : 21st November, 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. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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