

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

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

Ms. Astha Chandra, Judicial Member

ITA No. 1288/Del/2023 : Asstt. Year : 2017-18

Shilu Kumar, 6H, Hansalaya Building, Barakhamba Road, Connaught Place, New Delhi-110001	Vs	Income Tax Officer, Ward-28(5), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AAAPK9054E		

**Assessee by : Sh. Ruchesh Sinha, Adv.
Revenue by : Sh. Piyush Tripathi, Sr. DR**

Date of Hearing: 15.02.2024

Date of Pronouncement: 23.04.2024

ORDER

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

The present appeal has been filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 25.03.2023.

2. Following grounds have been raised by the assessee:

"1. That the Id. CIT(A) is erred under the law while partly confirming the impugned order passed by the Id. AO.

*2. That having regard to the facts and circumstances of the case, the Id. CIT(A) is erred under the law while confirming the action of the AO of making addition of **Rs.5,92,830/-** on the basis of SFT information available with regard to the duty drawback sanctioned by the custom department."*

3. During the course of assessment proceedings, the Assessing Officer observed that as per SFT information shared by Custom Department, the assessee was sanctioned a duty drawback of Rs. 45,86,864/-. However, in the P&L account submitted by the assessee, the assessee has declared a duty drawback of Rs. 39,94,034/- only. Hence, the difference amount of Rs. 5,92,830/- was disallowed and added back to the income of the assessee.

4. Aggrieved, the assessee filed appeal before the Id. CIT(A) who affirmed the order of the Assessing Officer.

5. Aggrieved, the assessee filed appeal before the Tribunal.

6. Heard the arguments of both the parties and perused the material available on record.

7. The Assessing Officer had totally relied on the SFT information received from the customs department whereas he had not considered the reply and supporting documents submitted by the assessee. During the assessment proceedings, the assessee had submitted copy of ledger account of duty drawback and relevant extract of the bank statements reflecting the date wise duty drawback received during the Assessment Year.

8. It has been on record that the assessee has been consistently following the policy of maintaining accounts on cash basis. This accounting policy had clearly been mentioned in the Notes to Accounts of the Audited Financial Statements of the assessee. Therefore, all the incentives such as duty

drawback, FPS, MEIS, etc. were also accounted for on cash basis as per the accounting policy. The assessee had accounted for an amount of Rs. 39,94,034/- as income from Duty Drawback on receipt basis. The amount of Rs. 4.12 Lakhs which pertains to duty drawback sanctioned during the year relevant to the Assessment Year 2016-2017 but did not receive in that year were declared as income on receipt basis during the Assessment Year 2017-2018. Further, the amount of Rs. 9.67 Lakhs sanctioned during the year relevant to the Assessment Year 2017-2018 but received during subsequent years has also been accounted for as income in those years on cash basis.

9. The statement of duty drawback received and accounted is as under:

Particulars	Amount
Duty Drawback of FY 2015-16 received & declared as income during the year 2016-17	Rs. 4.12 Lakhs
Duty Drawback of FY 2016-17 received & declared as income during the year 2016-17	Rs. 36.19 Lakhs
Less : Duty Drawback returned to department	Rs. 0.38 Lakhs
Total received & declared as income during the year FY 2016-17	Rs. 39.94 Lakhs
Particulars	Amount
Total sanctioned Duty Drawback during the FY 2016-17	Rs. 45.86 Lakhs
Duty Drawback of FY 2016-17 received & declared as income during the year 2016-17	Rs. 36.19 Lakhs
Duty Drawback of FY 2016-17 received & declared as income in the subsequent years	Rs. 9.67 Lakhs

10. This accounting policy of the assessee regarding Export Incentives had been accepted for past many years by the

department as well. Since, the assessee had accounted for Duty Drawback sanctioned by the customs department on receipt basis as per the consistent accounting policy in two different years, it would be unfair to tax the difference in this Assessment Year. Therefore, the additions on account of difference amount of Rs.5,92,830/- is liable to be deleted.

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

Order Pronounced in the Open Court on 23/04/2024.

Sd/-

(Astha Chandra)
Judicial Member

Sd/-

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

Dated: 23/04/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR