

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Dr. Manish Borad, Accountant Member

**I.T.A. Nos. 1306 & 1307/KOL/2023
Assessment Years: 2014-2015 & 2015-2016**

***M/s. Country Spirit Shop,.....Appellant
114, G.T. Road (South),
Howrah-711101, West Bengal
[PAN:AADFC0675J]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-46(3), Kolkata,
3, Government Place (West),
Kolkata-700001***

Appearances by:

*Shri S.P. Dutta, Advocate, appeared on behalf of the
assessee*

*Shri Partha Pratim Barman, Addl. CIT, appeared on
behalf of the Revenue*

Date of concluding the hearing : July 16, 2024

Date of pronouncing the order : July 22nd, 2024

O R D E R

The above appeals are directed at the instance of assessee against the orders of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, both dated 27th September, 2023 passed for assessment years 2014-2015 & 2015-16 respectively arising out of the assessment order dated 25.11.2016 and 04.12.2017 respectively.

2. The sole grievance commonly raised for both the assessment years, i.e. A.Y. 2014-15 and 2015-16 is against the finding of ld. CIT(Appeals) confirming the additions made by the ld. Assessing Officer for the alleged receipt from refund of empty bottles at Rs.32,02,241/- and Rs.26,36,319/- for A.Y. 2014-15 and 2015-16 respectively.

3. At the outset, ld. Counsel for the assessee submitted that as per guidelines of the Excise Department, Government of West Bengal, the empty bottles, which are left by the customers after consuming country liquor, can be purchased by the assessee from the customers at the fixed price without making any profit or loss. The empty bottle purchase price is fixed by Excise Department, Government of West Bengal. The empty bottles are returned back to the vendor, i.e. M/s. Bhattacharyya Bottling Plant (in short 'BBP') at the same price. Therefore, there is no profit or loss basis at prices in these transactions of purchasing the empty bottles from the customers and returning to the vendor and, therefore, there is no entry is made in the Profit & Loss account and the only empty bottles deposit account is maintained, wherein both the transactions of making payment to the customers for purchase of empty bottles and then reducing the amount adjusted against the purchase of liquor bottles from BBP. He submitted that it is not a case of sale of scrap. He thus prayed that the impugned additions deserve to be deleted.

4. On the other hand, ld. D.R. vehemently argued supporting the order of ld. CIT(Appeals).

5. I have heard the rival contentions and gone through the record carefully. The assessee is aggrieved with the additions for the value of empty bottles at Rs.32,02,241/- and Rs.26,36,319/- for A.Y. 2014-15 and 2015-16 respectively. On perusal of the audited balance-sheet, price list of empty bottles fixed by Excise Directorate, Government of West Bengal placed at pages 10 & 11 of the paper book and also the ledger account of empty bottles find that the assessee runs a liquor shop and has various customers, who consume the liquor at the shop and return the empty bottles at the shop. As per the guidelines of the Government of West Bengal, Department of Excise, the assessee can purchase the empty bottles at the fixed price and pay cash to the customers and thereafter on timely basis returns these empty bottles to its vendor namely liquor distributorship M/s. Bhattacharyya Bottling Plant (BBP). After getting empty bottles, BBP raises invoices to the assessee reducing the price of such empty bottles. Perusal of all these details indicates that the assessee incurs neither profit nor loss with regard to the empty bottles. On one hand empty bottles from the customers purchased at fixed price and then returned the same at the same price to the vendor. These entries of purchase and returning back the empty bottles is not routed through the Profit & Loss Account, since there is no element of income. This system of accounting is consistently adopted by the assessee. Though as per the settled accounting methods the transaction of purchase of empty bottles from customers and

returned back to the 'BBP' should be routed through in the Profit & Loss Account so as to maintain more clarity in the accounts. But so far as the instant appeals are concerned, after examining the facts of the case, I am of the considered view that no addition for the refund of empty bottles needs to be made in the hands of assessee because the assessee with the requisite details has successfully demonstrated that the empty bottles are purchased from the customers at fixed price as per the guidelines issued by the Excise Department, West Bengal Government and without making any profit or incurred loss, the value of empty bottles is reduced from the invoices raised by BBP and all these transactions being carried out as per the guidelines of Excise Department, Government of West Bengal. I, therefore, set aside the order of Id. CIT(Appeals) and delete the impugned additions for both the assessment years. Effective grounds of appeal raised by the assessee for A.Y. 2014-15 and A.Y. 2015-16 are allowed.

6. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open Court on 22/07/2024.

Sd/-

(Manish Borad)
Accountant Member

Kolkata, the 22nd day of July, 2024

*Copies to :(1 M/s. Country Spirit Shop,
114, G.T. Road (South),
Howrah-711101, West Bengal*

(2) *Income Tax Officer,
Ward-46(3), Kolkata,
3, Government Place (West), Kolkata-700001*

(3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre (NFAC), Delhi;*

(4) *CIT- , Kolkata*

(5) *The Departmental Representative;*

(6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.