

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.1135/PUN/2024
Assessment Year : 2017-18**

ITO, Ward – 1, Ahmednagar	Vs.	Karmaveer Shankarrao Kale Sahakari Sakhar Karkhana Ltd. At Gautam Nagar, PO Kolpewadi, Tal Kopargaon, Ahmednagar – 423602
		PAN: AACAK5073C
(Appellant)		(Respondent)

Assessee by : Shri Mihir M Bapat (through virtual)
Department by : Shri P R Mane
Date of hearing : 18-09-2024
Date of pronouncement : 24-09-2024

ORDER

PER R.K. PANDA, VP :

This appeal filed by the Revenue is directed against the order dated 23.03.2024 of the Addl./JCIT(A)-1, Kolkata relating to assessment year 2017-18.

2. Facts of the case in brief, are that the assessee filed its return of income on 15.09.2017 declaring loss of Rs.4,95,65,852/-. The Assessing Officer, CPC processed the return u/s 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 21.03.2019 making addition of Rs.9,58,23,576/-.

3. Before the CIT(A) / NFAC it was submitted that the Assessing Officer erred in not allowing deduction of Rs.9,38,05,094/- being excise duty paid on closing stock of finished goods as on 31.03.2016. It was submitted that the said duty was added in assessment year 2016-17 being unpaid on 31.03.2016 which was paid in assessment year 2017-18 and claimed as deduction. The complete details were furnished before the CIT(A) / NFAC and a certificate of Chartered Accountant certifying that such excise duty for assessment year 2016-17 has been paid in assessment year 2017-18 was enclosed. Based on the arguments advanced by the assessee, the Ld. CIT(A) / NFAC directed the Assessing Officer to verify the claim of the assessee and pass the necessary rectification order if the claim is found to be correct.

4. Aggrieved with such order of CIT(A) / NFAC, the Revenue is in appeal before the Tribunal by raising the following grounds:

1. *Whether on facts and circumstances of the case, the Ld. CIT(A) is legally justified in considering assessee's submission of claim of deduction u/s 43B of the Income tax Act, 1961 of Rs.9,38,05,094/- only on the basis of certificate of the C.A., without any documentary evidence to substantiate the same?*
2. *Whether the Ld.CIT(A) is legally justified in directing the AO to verify the claim of the assessee and to allow it after verification?*
3. *The appellant craves leave to add, alter, amend and modify any of the above or all grounds raised at time of proceedings before the Hon'ble Tribunal which may please be granted.*

5. The Ld. DR at the outset submitted that the CIT(A) / NFAC does not have power to set aside the issue to the file of the Assessing Officer.

6. The Ld. Counsel for the assessee submitted that although the CIT(A) / NFAC has no power to remand the matter back to the file of the Assessing Officer, however, the Tribunal has got the power and therefore, he has no objection if the matter is restored to the file of the Assessing Officer.

7. We have heard the rival arguments made by both the sides and perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC. We find the Assessing Officer, CPC disallowed an amount of Rs.9,38,05,094/- and in appeal, the CIT(A) / NFAC directed the Assessing Officer to verify that the same was already added in assessment year 2016-17 and if found to be correct, then delete the addition. It is the submission of the Ld. DR that the CIT(A) / NFAC has no such power to remand the matter back to the file of the Assessing Officer. However, the Tribunal has got the power to restore the matter to the file of the CIT(A) / NFAC or Assessing Officer. Considering the totality of the facts of the case, we deem it proper to restore the issue back to the file of the Assessing Officer to verify the details furnished by the assessee regarding the payment of excise duty of assessment year 2016-17 in assessment year 2017-18 and pass appropriate order

as per fact and law. We hold and direct accordingly. The grounds raised by the Revenue are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open Court on 24th September, 2024.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 24th September, 2024
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

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

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	18.09.2024		Sr. PS/PS
2	Draft placed before author	23.09.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			