

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

**BEFORE
SHRI LALIET KUMAR, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.491, 493, 500 & 501/Hyd/2017**
(निर्धारण वर्ष / Assessment Year: 2008-09, 2010-11, 2011-12 & 2012-13)

Manisha Agri Biotech Private Ltd.
Hyderabad
[PAN :AACCM7108C]

Vs. DCIT/ACIT
Circle-16(2)
Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

आ.अपी.सं / **ITA No.45/Hyd/2017**
(निर्धारण वर्ष / Assessment Year: 2010-11)

DCIT, Circle-16(2)
Hyderabad

Vs. Manisha Agri Biotech Private Ltd., Hyderabad
[PAN :AACCM7108C]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: None
राजस्व द्वारा/Revenue by: Shri Jeevan Lal Lavidiya, CIT,DR

सुनवाई की तारीख/Date of hearing: 09/10/2024
घोषणा की तारीख/Pronouncement on: 23/10/2024

आदेश / ORDER

Per Bench:

These cross appeals are filed by Manisha Agri Biotech Private Ltd., ("the assessee") and the revenue, feeling aggrieved with the separate

orders passed for each year by the Commissioner of Income Tax (Appeals)-4 ("Ld. CIT(A)") for the A.Y. 2008-09, 2010-11, 2011-12 all dated 18/10/2016 and for A.Y. 2012-13 dated 20/12/2016. Since the grounds filed in these appeals are similar in nature, these appeals are clubbed, heard together and a common order is being passed for the sake of convenience as under.

I.T.A. No.491, 493, 500 & 501/Hyd/2017 for A.Y. 2008-09, 2010-11, 2011-12 & 2012-13 :

2. As far as these appeals of the assessee are concerned, there was no appearance before us on behalf of the assessee. After hearing the Ld. DR and going through the orders of the revenue authorities, we did not find any irregularities in the orders of the Ld. CIT(A). Accordingly, we uphold the orders of the Ld. CIT(A) and dismiss the appeals of the assessee.

3. In the result, the appeals of the assessee in ITA No.491, 493, 500 & 501/Hyd/2017 for A.Y. 2008-09, 2010-11, 2011-12 & 2012-13 respectively are dismissed.

I.T.A.No.45/Hyd/2017, A.Y.2010-11

4. Ground No.3 to 5 are general in nature and therefore do not require any specific adjudication.

5. Ground No.1 is related to direction given by the Ld.CIT(A) to the Ld.AO to adopt net profit @6.94% on the unaccounted sales. In the case of the assessee's appeal for the A.Y.2008-09, 2010-11,2011-12 and 2012-13, the Ld.CIT(A) has taken similar view by holding that the percentage of net profit earned by the assessee in the respective years shall be added to the total income at the same percentage on the unaccounted sale also. However, the revenue has filed appeal only for A.Y.2010-11 and not filed any appeal for any other assessment year. In our considered view the revenue is not allowed to take inconsistent approach in the case of the

same assessee for the same issue for different assessment years. Therefore, we dismiss the appeal of the Revenue on this ground.

6. Ground No.2 relates to deletion of disallowance u/s 36(1)(va) r.w.s.2(24)(x) of the Act by the Ld. CIT(A). Ld.AO disallowed the claim of deduction u/s 36(1)(va) of the Act, as the assessee did not deposit employees' contribution towards Provident fund ("employees' contribution") on or before the due date as mentioned in the relevant Acts.

7. On appeal before the Ld.CIT(A), the assessee contended that the assessee had deposited the employees' contribution before the due date for filing of the return of income u/s 139(1) of the Act and the deduction is allowable u/s 43B of the Act. Ld.CIT(A) concurred with the submissions made by the assessee and accordingly deleted the addition made by the Ld.AO.

8. Aggrieved by the order of the Ld.CIT(A) Revenue is in appeal before us. Ld. DR relying on the judgment of the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., reported in 448 ITR 518 (SC), submitted that the employees' contribution was required to be deposited on or before the due date as mentioned in the relevant Acts. Since the assessee did not deposit the employees' contribution on or before the due date as mentioned in the relevant Acts, claim of the assessee is not allowable as held by the Hon'ble Apex Court (supra). He, therefore, pleaded to quash the order passed by the Ld.CIT(A) and allow the appeal of the Revenue on this ground.

9. We have heard the submissions of the Ld. DR in the absence of any appearance on behalf of the assessee and perused the material on record. For the A.Y. 2010-11, there is no dispute about the fact that the assessee had not deposited the employees' contribution on or before the due date as mentioned in the relevant Acts. Under the similar issue, the Hon'ble Apex Court in the case of Checkmate Services Pvt. Ltd., (supra) has categorically

held that if the employees' contributions are not paid within the due dates specified under the respective Acts, assessee will not be entitled to deduction under section 36(1)(va) of the Act. Hence, respectfully following the decision of the Hon'ble Apex Court (Supra), we also hold that since the assessee did not deposit the employees' contribution on or before the due date as mentioned in the relevant Acts, the claim of the assessee is not allowable. Accordingly, we quash the order passed by the Ld.CIT(A) and allow the appeal of the Revenue on this ground.

10. In the result, all the appeals of the assessee in ITA No.491, 493, 500 & 501/Hyd/2017 for A.Y. 2008-09, 2010-11, 2011-12 & 2012-13 respectively are dismissed and the appeal of the Revenue in ITA No.45 for A.Y. 2010-11 is partly allowed.

Order pronounced in the open court on this the 23rd October, 2024.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad, Dated: 23/10/2024
L.Rama, SPS

Copy forwarded to:

1. M/s Manisha Agri Biotech Pvt. Ltd., Survey No.47, 48, 49, Gandimysamma Road, Beside HP Petrol Pump, Near outer ring road bridge, Kandlakoti Village Check Post, Medchal Mandal, RR Dist., Hyderabad
2. The DCIT/ACIT, Circle-16(2), Hyderabad
3. The Pr.CIT-4, Hyderabad
4. The DR, Hyderabad
5. Guard File

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ITAT, HYDERABAD