

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1292/PUN/2018
निर्धारण वर्ष / Assessment Year : 2004-05

ITO, Ward-5(4), Pune	Vs.	Roj Enterprises Pvt. Ltd., A-8, Saket, 45, 1+2/A, Karenagar, Off Patwardhan Baug, Pune 411 052 PAN : AACCR4167L
Appellant		Respondent

Assessee by Shri Hari Krishan
Revenue by Shri S.P. Walimbe

Date of hearing 08-10-2021
Date of pronouncement 08-10-2021

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the Revenue arises out of the order passed by the CIT(A)-13, Pune on 25-04-2018 in relation to the assessment year 2004-05.

2. It is a recalled matter inasmuch as the earlier order passed by the Tribunal on 29-08-2019 came to be recalled vide its latter order dated 19-03-2021.

3. The only issue involved in this appeal, through various grounds, is against granting deduction of Rs.1,43,94,061/-.

4. Briefly stated, the facts of the case are that the assessee is an export house dealing in Mango Pulp etc. A return of income was

filed declaring loss of Rs.2,50,01,337/-. The assessee company, in an earlier year, took over a business concern, namely, M/s. Roj Enterprises from its sole proprietor Mr. R.N. Kulkarni. During the course of assessment proceedings, the AO observed that the assessee claimed deduction, *inter alia*, of Rs.1,43,94,062/- which was declared as an item of extraordinary loss. On being called upon to explain the nature of the deduction, the assessee submitted that it was a business loss. It was further explained that it decided to run Alliance Agro, Nagpur (hitherto a sick company) along with two more companies for processing Mango pulp and pumped in funds to kick-start the factory. Certain expenses were incurred for the operations of Alliance Agro. Unfortunately, due to severe heat wave in Nagpur, fruits were overripe and the plant could not start in time. The assessee also gave a bifurcation of the loss of Rs.1.43 crore, being, expenses at Alliance Factory (as reduced by stock salvaged and purchased) amounting to Rs.1,12,84,898/- and opening stock of Alliance puffed due to excessive heat (607 bags of 250 kg each) amounting to Rs.39,01,163/-. In support of the total amount of loss incurred of Rs.1.43 crore, the assessee submitted that it agreed to work with Alliance Agro for conversion of Mango pulp at their facility. It agreed to make payments on their behalf with an understanding that it will purchase Mango pulp at basic cost plus Rs.

4500 PMT on converted product. Since Alliance Agro, a sick company, did not have any working capital finance, the assessee agreed to put in the money for purchase of Mango pulp. The amount incurred by the assessee company for operations of Alliance Agro, which was a part of its business, resulted in to the above loss. In support of this contention, the assessee also furnished other collateral details. The AO called upon the assessee to produce representatives of Alliance Agro, to which the assessee submitted that it was beyond its control as the representatives from Alliance Agro were not putting in appearance before the AO and the necessary action may be taken at the end of the Revenue. Not convinced, the AO disallowed the loss of Rs.1,43,94,061/-. The Id. CIT(A) overturned the assessment order on the point and deleted the addition. Aggrieved thereby, the Revenue has come up in appeal before the Tribunal.

5. We have heard both the sides and gone through the relevant material on record. It is an admitted position that the Alliance Agro is unrelated to the assessee and stands at an arm's length. The Government of Maharashtra was a stakeholder in this company, which had turned sick. In order to accelerate its business, the assessee entered into an understanding with the company for pumping in funds so that the Mango pulp produced there could be used in its business. Due to weather conditions and other factors

beyond control, the assessee's effort could not fructify and the amount invested in the company for purchases and meeting other expenses became irrecoverable which the assessee wrote off. A director of Alliance Agro furnished a letter dated 15-11-2016 addressed to the assessee in which the genuineness of the transactions has been admitted in an elaborate manner. Alliance Agro also confirmed in that letter that it jointly decided with the assessee to process Mango pulp at its factory premises and in the absence of working capital finance, the assessee agreed to finance the entire operations and functioning of the factory. Due to technical snags developing in the factory, the production could not be commenced in time and further due to unprecedented heat wave, the Mango purchased by the Alliance Agro got overripe and most of that was rendered useless for production. A copy of this letter has been reproduced in the impugned order. The fact that the assessee put in money for operationalising Alliance Agro's business, which was, in turn, meant for facilitating its own business, is not disputed. A copy of the ledger account of Alliance Agro in the books of assessee has been placed on record, which clearly depicts various payments over the period. The further fact that the business of Alliance Agro could not take off properly due to technical snags and the bad weather conditions reinforces the assessee's claim of having genuinely

incurred loss of Rs.1.43 core for its business purpose which became irrecoverable loss. As the loss is only in the revenue field, we are satisfied that the Id. CIT(A) took an unexceptionable view on this issue by allowing deduction. We, therefore, affirm the impugned order.

6. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 08th October, 2021.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 08th October, 2021
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The CIT(A)-13, Pune
3. The PCIT-4, Pune
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

		Date	
1.	Draft dictated on	08-10-2021	Sr.PS
2.	Draft placed before author	08-10-2021	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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