



ITA.No.3981/Mum/2016
Centaur Pharmaceuticals Private Limited
Assessment Year 2011-12

आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“H” BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE SHRI MAHAVIR SINGH, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./I.T.A. No. 3981/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2011-12)

Centaur Pharmaceuticals Private Limited Centaur House, Shanti Nagar Vakola, Santacruz(E) Mumbai – 400 055	बनाम/ Vs.	Deputy Commissioner of Income-Tax 10(1) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAACC-0444-K		
(□ पीलार्थी / Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Vishwas V.Mehendale, Ld. AR
Revenue by	:	M.C.Omi Ningshen, Ld. DR

सुनवाई की तारीख / Date of Hearing	:	14/02/2018
घोषणा की तारीख / Date of Pronouncement	:	21/02/2018

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member)

1. The captioned appeal by assessee for Assessment Year [AY] 2011-12 contest the order of Ld. Commissioner of Income-Tax (Appeals)-22 [CIT(A)], Mumbai, *Appeal No.CIT(A)22/IT/156/2014-15* dated 03/03/2016. The assessment for impugned AY was framed by Ld. *Deputy Commissioner of Income Tax-10(1), Mumbai [AO] u/s 143(3) of*



the Income Tax Act, 1961 on 31/03/2014. The solitary issue involved in the appeal is disallowance of certain Legal & Professional Charges for Rs.18.70 Lacs. The sole effective ground raised by the assessee reads as under:-

1. *On the facts and circumstances of the case and in law, Ld. CIT(A) was not justified in confirming the order of the learned Assessing Officer of making a disallowance of Legal & Professional charges of Rs.18,70,718/- treating the same as Capital expenditure and not allowing it as revenue expenditure.*
2. Facts leading to the same are that during assessment proceedings u/s 143(3), Ld. AO opined that certain legal & professional charges to the extent of Rs.69.17 Lacs incurred by the assessee were capital in nature and hence not allowable as revenue expenditure. This expenditure were primarily in the nature of *product registration fees, patent registration & forging of license agreement etc.* Aggrieved, the assessee contested the same with partial success before Ld. CIT(A) vide impugned order dated 03/03/2016.
3. The Ld. CIT(A) noted that the correct figures to be disallowed was Rs.47.73 Lacs and further, relying on the order of its predecessor for earlier AYs, provided partial relief to the extent of Rs.29.46 Lacs and confirmed balance disallowance of Rs.18.27 Lacs being amount paid to *Dr. May Pharma Consult GmbH*. Still aggrieved, the assessee is in further appeal before us.
4. The Ld. Authorized Representative for Assessee [AR], at the outset, drew attention to the fact that the assessee suffered similar disallowance in AYs 2008-09 & 2009-10 which was contested up-to the level of this Tribunal vide ITA No.7056/Mum/2011 & ITA No.5782/Mum/2012 dated 27/04/2015 where the matter was restored



back with certain directions and therefore, similar directions may be given in this year also. The Ld. DR raised no serious objections against the same.

5. Upon perusal of the cited order of the Tribunal for AY 2008-09 & 2009-10, we find that the issue has been restored back by the Tribunal with following directions:-

6.2 *Now the question relates to payment made to Dr. May Pharma Consult GMBH. In this regard, we observed that this disallowance has been upheld by Ld. CIT(A) on the ground that this was not made for the purpose of business. Ld. CIT(A) has also observed that there was no material on record to hold that what services were provided by the said party to the assessee. Against these observations of Ld. CIT(A) it is the case of the Ld. AR that the payments are supported by the agreement as well as the work done by the said party which were supported by emails and other documentary evidence. However, it was submitted that this matter may be restored back to the file of AO for verification of the purpose of business as well for determining the services rendered by the said party to the assessee. Accordingly, after hearing both the parties, we restore the issue to the file of AO limited to the extent of making such verifications in respect of payments made to Dr. May Pharma Consult GMBH, which are claimed as expenditure incurred for the purpose of business. After conducting necessary verification, the AO is directed to decide this issue in accordance of law after giving the assessee a reasonable opportunity of hearing. We direct accordingly.*

We find identical facts in the present case and therefore, respectfully following the binding judicial precedent, the matter is restored back to the file of Ld. AO for verification on similar lines.

6. Resultantly, the assessee's appeal stands allowed for statistical purposes.



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Centaur Pharmaceuticals Private Limited
Assessment Year 2011-12

Order pronounced in the open court on 21st February, 2018

Sd/- (Mahavir Singh) Sd/- (Manoj Kumar Aggarwal)
न्यायिक सदस्य / **Judicial Member** लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21. 02.2018
Sr.PS:- Thirumalesh

आदेश की प्रतिलिपि ँ त्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT – concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai