

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH "A" CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE: SH. SANJAY GARG, JUDICIAL MEMBER &
SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No. 695/CHD/2017

निर्धारण वर्ष / Assessment Year : 2009-10

M/s Aster Drugs & Pharmaceuticals Limied., #760, Sector 43-A, Chandigarh	बनाम	The Addl. CIT, Range-V, Chandigarh
स्थायी लेखा सं./PAN NO: AABCA4202A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Tej Mohan Singh

राजस्व की ओर से/ Revenue by : Smt. Chandrakanta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 19.02.2019

उद्घोषणा की तारीख/Date of Pronouncement : 19.02.2019

आदेश/Order

Per Sanjay Garg, Judicial Member :

The present appeal has been preferred by the assessee against the order dated 15.02.2016 of the Commissioner of Income Tax (Appeals)-2 Chandigarh [hereinafter referred to as CIT(A)] relating to 2009-10 assessment year.

2. The assessee has taken following grounds of appeal:

1. That the Ld. Commissioner of Income Tax (Appeals) has erred in law in as well as on facts in upholding the short term capital gains taking the full value of consideration at Rs. 1,37,83,173/- as against Rs. 1,04,00,000/- taken by the assessee company and as such the order passed is illegal, arbitrary & unjustified.
2. That the Ld. Commissioner of Income Tax (Appeals) has further erred in upholding the addition of Rs.33,83,173/- being the revenue expenditure claimed and at the same time adding the same towards the total consideration received which tantamounts to double addition and as such the addition upheld is arbitrary and unjustified.
3. That the Ld. Commissioner of Income Tax (Appeals) has further erred in law as well as on facts in upholding the addition of Rs.6,30,881/- disallowing the claim of depreciation which is arbitrary and unjustified.
4. That the order of the Ld. Commissioner of Income Tax (Appeals) is erroneous, arbitrary, opposed to law and facts of the case and is, thus, untenable.

3. Ground Nos. 1 and 2 are relating to the computation of short term capital gain. The assessee during the year sold certain plant and machinery and claimed certain expenditure incurred for the said purpose and after deducting Rs. 33.83 lacs, offered the income under the head 'short term capital gain'. However, the Assessing Officer (hereinafter referred to as 'AO) denied the claim of expenditure and included the same into the income of the assessee.

4. Before the CIT(A), the assessee furnished details of expenditure. The Id. Counsel has also invited our attention to the letter dated 04.02.2016 placed at page 51 of the Paper Book whereby the assessee had submitted that each and every detail regarding transaction including the expenditure incurred was furnished before the AO. However, the Id. CIT(A) without considering the submissions of the assessee and without examining the details, just confirmed the order of the AO. The order of the Id. CIT(A) is non-speaking order on this issue. Under the circumstances, we set aside the order of the CIT(A) on this issue and restore the matter back to him with the direction to consider the submissions of the assessee examine the details, explanation and evidences furnished by the assessee and to pass a speaking order in accordance with law.

Ground No. 3

5. In ground No. 3, assessee has agitated the confirmation of addition of Rs. 6,30,881/- on account of disallowance of claim of depreciation. The AO disallowed the claim of depreciation observing that the assessee did not carry out any

manufacturing activity during the year. The assessee submitted that the assessee during the year had carried out job work and that the unit was operated upon. However, the CIT(A) did not give any specific finding on the above contention of the assessee. In view of this, this issue is also restored to the file of the CIT(A) for adjudication afresh after due consideration of the submissions and details furnished by the assessee. No other ground raised or pressed.

6. In view of our findings give above, the appeal of the assessee is treated as allowed for statistical purposes.

Order dictated and pronounced in the Open Court on completion of hearing on 19th February, 2019.

Sd/-

Sd/-

(अन्नपूर्णा गुप्ता)
(ANNAPURNA GUPTA)

(संजय गर्ग)
(SANJAY GARG)

लेखा सदस्य/ Accountant Member

न्यायिक सदस्य/ Judicial Member

'Poonam'

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order
सहायक पंजीकार/ Assistant Registrar