

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
CHANDIGARH BENCH "B", CHANDIGARH

श्री सतबीर सिंह गोदारा, न्यायकि सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य  
BEFORE: SHRI SATBIR SINGH GODARA, JUDICIAL MEMBER  
AND SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.1529/Chd/2018

निर्धारण वर्ष / Assessment Year : 2012-13

The A.C.I.T., Circle 5(1), Chandigarh.	बनाम	M/s Venus Remedies Ltd., SCO 857, Cabin No.10, 1 <sup>st</sup> Floor, NAC, Manimajra, Chandigarh.
स्थायी लेखा सं./PAN NO.AAACV6524H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by: S/Shri S.C. Gupta, ITP  
& Jaspal Sharma, Adv.

राजस्व की ओर से/ Revenue by : S/Shri Phani Kishore, CIT DR  
& V.K. Kataria, Sr. DR

सुनवाई की तारीख/Date of Hearing : 29.05.2019

उद्घोषणा की तारीख/Date of Pronouncement: 23.07.2019

**आदेश/ORDER**

**Per Annapurna Gupta, Accountant Member:**

The present appeal has been filed by the Revenue against the order of the Commissioner of Income Tax (Appeals)-2, Chandigarh [(in short 'CIT(A)'] dated 28.09.2018 passed u/s 250(6) of the Income Tax Act, 1961 (hereinafter referred to as 'Act'), relating to assessment year 2012-13.

2. The grounds raised by the Revenue read as under:

- (i) *Whether in the facts and circumstances of the case, the order of Ld.CIT(A) is not perverse in setting aside the issue and directing the AO to verify the claim of the assessee and compute the MAT whereas the issue of computation of book profit and MAT is pending before him vide order of Hon'ble ITAT in ITA No.1241/Chd/2017 dated 22.01.2018 ?*
- (ii) *Whether in the facts and circumstances of the case the order of Ld.CIT(A) is not perverse in setting aside the issue and directing the AO to verify the claim of the assessee and compute the MAT without adjudicating all the facts which were available before him?*
- (iii) *Whether in the facts and circumstances of the case, the order of Ld CIT(A) is not perverse in setting aside the matter and directing the AO to verify the claim of the assessee and compute the MAT when as per section 251(1) of the Income tax Act, CIT(A) cannot be set aside to Assessing officer since that requires examination of supporting documents not on record?*
- (iv) *Whether in the facts and circumstances of the case, the order of Ld. CIT(A) is not perverse in directing verification of a claim which involved the issue of deferred revenue expenditure, pending for adjudication before CIT(A), against an application by taxpayer u/s 154 rejected by AO and set aside by ITAT to CIT(A) which was pending for adjudication with him ?*
- (v) *Whether in the facts and circumstances of the case, the order of Ld CIT(A) is not perverse in directing the AO to verify the claim of the assessee and compute the MAT when computation filed before CIT(A) involves claim which was not a part of the e-filed return and the report as per Rule 40B in form 29BB?*
- (vi) *Whether in the facts and circumstances of the case, the order of Ld. CIT(A) is not perverse in directing the AO to verify the claim of the assessee and compute the MAT when the Hon'ble ITAT in this case has clearly held that*

*it was his bounden duty to adjudicate the case and not to restore the matter to assessing officer vide order of Hon'ble ITAT in ITA No.1241/Chd/2017 dated 22.01.2018 ?*

- (vii) Whether in the facts and circumstances of the case, the order of Ld. CIT(A) is not perverse in directing the AO to verify the claim of the assessee and compute the MAT when the taxpayer was claiming brought forward MAT credit which can be allowed if the tax payable is under other provisions is more than the MAT, whereas in this year tax had been paid/payable per MAT?*
- (viii) Whether in the facts and circumstances of the case, the order of Ld. CIT(A) is not perverse in accepting tax payer's reliance on the decision of the Hon'ble SC in CIT Vs. Karnataka soaps and detergents which is not applicable to the case of the assessee as the assessee had made no claim in the return of income?*
- (ix) It is prayed that the order of Ld. CIT(A) be set aside and that of the Assessing officer may be restored.*
- (X) The appellant craves leave to add or amend any grounds of appeal before the appeal is heard or is disposed off."*

3. At the outset itself, it was pointed out that the solitary grievance of the Revenue was against the direction given by the CIT(A) to the AO to compute the MAT tax payable by the assessee, after verifying the claim of the assessee. It was pointed out that in the various grounds raised by the Revenue, this was the only grievance.

4. Taking us through the facts of the case, it was pointed out that after framing the assessment on the assessee u/s 143(3) of the Act at Rs.10,01,28,000/-, the A.O. had raised a

demand of Rs.10,47,14,270/- and no tax computation sheet had been issued. It was pointed out that there was nothing in the assessment order also to indicate as to how the demand had been computed at a figure which was more than the income assessed. Accordingly, the assessee raised a ground against the demand raised by the A.O. ,in the appeal field before the CIT(A). The Ld.CIT(A) directed the A.O. to verify the claim of the assessee and compute the MAT accordingly, and if any credit was due to the assessee as per law, he directed the same be given to the assessee. Our attention was drawn to para Nos.8.1 & 8.2 of the CIT(A)'s order as under:

*“8.1 During appellate proceedings AR of the assessee filed written submissions, relevant portion of which is reproduced below:*

*"The AO raised the demand at Rs. 10.47,14,270 against assessee vide Notice of demand dated 28.12.2017 under section 156 without issuing any tax computation sheet. There is nothing in the assessment order to indicate as to how the demand of Rs.10,47,14,270/- has been computed on regular income of Rs.10,01,28,924/- computed by the AO and Nil book profit. There is no indication as to how the demand has exceeded even the assessed income and how much credit has been allowed for taxes paid by way of TDS, Advance Tax, Self assessment tax, Post assessment tax and out of accumulated MAT credit.*

*The AO may be directed to take the book profit at Rs.5,51,89,019 and compute MAT. Further the AO may be directed to compute tax payable/refundable after giving credit of accumulated MAT if available and after*

*giving credit of taxes already paid. The AO may also be directed to give computation sheet. "*

*8.2 I have considered the submission of the assessee. The assessee vide the said ground has contended that the AO has computed demand at Rs.10,47,14,270/- without issuing computation sheet on the income of Rs.10,01,28,924/- and taking book profit as 'Nil' as against a book profit at Rs.5,51,89,019/- claimed by the assessee. In view of the submission of the assessee, the AO is directed to verify the claim of the assessee and compute the MAT accordingly and if any credit is due to the appellant as per law, the same should be given to the appellant. The ground of appeal is allowed for statistical purposes."*

5. The Ld. DR contended that as per the provisions of section 251(1) of the Act the CIT(A) could not remand any matter to the A.O. and, therefore, the impugned direction given by the CIT(A) was not as per law.

6. The Ld. counsel for assessee, on the other hand, supported the order of the CIT(A).

7. We have considered the rival contentions. The sole grievance of the Revenue is against the direction given by the CIT(A) to the A.O. to compute the tax payable under MAT and after verifying the claim of the assessee of its book profits amounting to Rs.5,51,89,019/. Considering the pleadings made by the Revenue, we set aside the order of the Ld.CIT(A) giving aforesaid direction and at the same time, we also direct the CIT(A) to adjudicate the issue himself

after calling for a Remand Report on the facts of the issue from the A.O.

8. In the result, the appeal of the Revenue, therefore, stands allowed in above terms.

Order pronounced in the Open Court.

Sd/-

**सतबीर सिंह गोदारा**  
**(SATBIR SINGH GODARA )**  
**न्यायकि सदस्य/ Judicial Member**

**दिनांक /Dated: 23<sup>rd</sup> July, 2019**

**\*रती\***

Sd/-

**अन्नपूर्णा गुप्ता**  
**(ANNAPURNA GUPTA)**  
**लेखा सदस्य/ Accountant Member**

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