



ITA No.3263/Mum/2018  
M/s. Aaura Personal Products P.Ltd.  
Assessment Year-2012-13

**आयकर अपीलीय अधिकरण "ए" न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, MUMBAI**

श्री शक्तिजीत दे, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।  
**BEFORE SHRI SAKTIJIT DEY, JM AND**  
**SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ I.T.A. No.3263/Mum/2018  
(निर्धारण वर्ष / Assessment Year:2012-13)

<b>DCIT-15(1)(1)</b> Room No.470, 4 <sup>th</sup> Floor Aaykar Bhavan, M.K. Road Mumbai-400 020.	<b>बनाम/</b> <b>Vs.</b>	<b>M/s. Aaura Personal Products Pvt.Ltd.</b> 1 <sup>st</sup> Floor, Cecil Court Mahakavi Bhushan Marg Colaba, Mumbai-400 001.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AAECA-5760-C</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Shri K. Gopal & Ms. Neha Paranjpe-Ld.ARs
<b>Revenue by</b>	:	Shri S. Michael Jerald-Ld.DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	16/10/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	13/11/2019

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member):-**

1. Aforesaid appeal by revenue for Assessment Year [AY] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-24,



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Mumbai, [in short referred to as 'CIT(A)'], *Appeal No.CIT(A)-24/AIT-15(1)(1)/IT-94/2015-16* dated 14/02/2018 on following grounds of appeal: -

1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the Assessing Officer, in respect of payment of Rs.1,62,27,450/- made to persons specified u/s 40(A)(2)(a) of the Income Tax Act, without appreciating that the assessee could not explain the reasonableness of the transactions with supporting evidences with regard to the fair market value and comparative rates and the assessee's refusal to justify the cost was sufficient reason to believe the mala-fide intention of the assessee."
2. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by the Assessing Officer, in respect of excess interest expenditure of 1% amounting to Rs.15036/- paid to the group entity being persons specified u/s 40(A)(2)(a) of the Income Tax Act."
3. The appellant prays that the order of the CIT(A), Mumbai on the above directions be set-aside and that of the assessing officer be restored."

2.1 Facts on record would reveal that the assessee being resident corporate assessee stated to be engaged in manufacturing of chemicals, toiletries and personal care products was assessed for year under consideration u/s 143(3) on 28/03/2015 wherein the income was assessed at Rs.162.42 Lacs after sole disallowance u/s 40A(2)(a) for Rs.162.42 Lacs as against *Nil* return e-filed by the assessee on 28/09/2012.

2.2 During assessment proceedings, it transpired that the assessee made payment of Rs.162.27 Lacs towards purchases of packing material and interest payment of Rs.15.03 Lacs to an entity namely *M/s Bharat Containers (Nagpur) Pvt. Ltd.* The said entity was a specified person within the meaning of Sec. 40A(2)(b) of the Act. Hence, the assessee was show-caused to justify the reasonableness of the expenditure having regards to the fair market rates and comparative rates. The assessee submitted that input rates were finalized between the suppliers and assessee's principal



and the assessee was only a convertor of raw material as per the directions of its principal.

2.3 The Ld.AO noted that the assessee was admittedly a contract manufacturer for various multinational and corporate clients and as such expenditure incurred on behalf of its clients / principals was liable to be reimbursed. However, the record and details filed by the assessee would not show any such recoveries and therefore, the assessee made these purchases only with a view to inflate the cost unreasonably to suppress the profit and its income. Therefore, the entire expenditure was considered as unreasonable within the meaning of Sec. 40A(2)(a) and added to assessee's income.

2.4 Regarding interest payment, the assessee submitted that it paid interest @13.5% to sister concern which was the same rate as paid on working capital loans obtained from bankers. However, noticing that the assessee paid interest @12.5% to one of the Bankers as against rate of 13.5% paid to sister concern, Ld. AO worked out proportionate disallowance of Rs.15,036/- u/s 40A(2)(a).

3.1 Aggrieved, the assessee agitated both the disallowances before first appellate authority by way of elaborate submissions. The assessee explained that the assessee was engaged in manufacturing of consumer products viz. Deodorants / perfumes for *Amway India Private Ltd. [Amway]* and was required to procure raw material including packaging material from its suppliers. The amount of Rs.162.42 Lacs was spent on purchasing cans which were required to fill the fragrance and Ld. AO proceeded on wrong



footing that the said expenditure was reimbursable in nature. As per the terms of agreement entered into by the assessee with Amway, the assessee was required to supply goods as per specifications given by Amway and also at the cost approved by them. However, the assessee was required to purchase raw material and packaging material on its own account which was evident from clause 2.6 of agreement dated 03/11/2011. The goods were supplied at the prices agreed to by Amway only and cost of purchases of all raw material including packing material was recovered in the selling prices only. These costs very much form part of the manufacturing costs of the assessee. Similarly, regarding interest rate, it was submitted that the loans from sister concern was unsecured and interest was payable on annual basis as against the bank loan which was secured and interest was payable at the end of each month.

3.2 The learned CIT(A), finding both the issues to be in assessee's favor by the order of its predecessor for AY 2010-11, deleted the addition. Aggrieved, the revenue is in further appeal before us.

4. The Ld. Departmental Representative [DR] submitted that the assessee could not prove the reasonableness of the expenditure. It was also submitted that appeal in AY 2010-11 was not preferred by revenue due to low tax effect. On the other hand, Ld. Authorized Representative for Assessee (AR), Shri K.Gopal, submitted that the impugned additions were made on the wrong footing that the said costs were not recovered from the principal. The attention was drawn to the fact that packing material was procured by the assessee along with other raw material and the



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manufacturing cost was recovered in the selling prices only. The attention was drawn to the fact that there was no change in assessee's nature of business and no such addition was made for AY 2013-14 while framing assessment u/s 143(3). In the above background, Ld. AR submitted that the ingredients of Section 40A(2)(a) were neither attracted nor demonstrated to be fulfilled by Ld. AO and therefore, the additions were rightly deleted.

5. Upon due consideration, we find that undisputedly the assessee was engaged in manufacturing of goods for its principal. As per the terms of agreement, the assessee was required to procure raw material as well as packing material for its principal and the cost of manufacturing including packing material was in-built in pre-determined selling prices and not separately recoverable from the principal. As noted by Ld. first appellate authority, in order for AY 2010-11, the products being manufactured by the assessee were required to be packed in aluminum cans and plastic bottles as per the requirements of the customers. It is also noted that no such addition has been made in AY 2013-14 by Ld. AO while framing assessment u/s 143(3).

6. Proceeding further, the provisions of Sec.40A(2)(a) envisages disallowance of only so much of expenditure, which in the opinion of Ld. AO, was excessive or unreasonable having regard to the fair market price of goods. We find that the onus to prove the unreasonableness of expenditure was on revenue. However, no such exercise is shown to have been carried out by Ld. AO. Rather, the Ld. AO, in the process of applying the provisions of Sec.40A(2)(a), disallowed entire expenditure claimed by



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the assessee as if the expenditure was entirely bogus and the goods were not, at all, procured by the assessee ignoring the fact that the purchase of packing material was as per the terms of the agreement.

7. Similarly, there was marginal difference in rate of interest being paid by the assessee to associated concern in comparison to interest paid to bank which stood explained by the fact that the loans obtained from bank was secured loan and interest was payable on monthly basis as against loan of sister concerns which was unsecured and interest was payable on annual basis. The explanation furnished by the assessee could be termed as plausible explanation keeping in view the difference in two interest rates.

8. Therefore, on the facts and circumstances, we see no reason to interfere with the impugned order. Accordingly, the appeal stands dismissed.

*Order pronounced in the open court on 13th November, 2019.*

**Sd/-**  
**(Saktijit Dey)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 13/11/2019  
Sr.PS:-Jaisy Varghese

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

1. अपीलार्थी/ The Appellant



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2. प्रत्यर्धी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**