

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER &  
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

I.T.A. Nos. 6401/Mum/2018  
Assessment Years : 2013-14

Mapra Laboratories Pvt Ltd., 201, Adhyaru Industrial Estate, Sun Mill Compound, Lower Parel, Mumbai.	<b>बनाम/ Vs.</b>	ACIT – Circle 7(2)(1) Mittal Court, Nariman Point, 22, Mumbai.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACM5060F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri Ajay Kumar Rastogi
प्रत्यर्थी की ओर से/Respondent by :	Smt. Jothilakshmi Nayak

सुनवाई की तारीख / Date of Hearing	09/01/2020
घोषणा की तारीख /Date of Pronouncement	22/01 /2019

आदेश / O R D E R

**PER SAKTIJIT DEY- JM:**

This is an appeal by the assessee against order dated 20.07.2018 passed by the learned Commissioner of Income Tax (Appeal) -13, Mumbai for the Assessment Year 2013-14.

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2. In ground No.1, the assessee has challenged disallowance of Rs. 28,11,627/- being expenditure incurred towards gift items given to doctors.

2.1 Briefly the facts are, the assessee, a resident company is engaged in the business of manufacturing and sale of various types of pharmaceutical products. For the assessment year under dispute the assessee filed its return of income on 26.09.2013, declaring income of Rs. 16,29,88,200/-. In course of assessment proceeding, the Assessing Officer noticed that the assessee has claimed expenditure of Rs. 28,11,627/- towards providing various gift items to doctors, such as laptop, LCD, TV, washing machine, air conditioners, mixer grinder, mobile etc. Noticing this, the Assessing Officer called upon the assessee to furnish the details of the doctors, such as, address, PAN, amounts spent, nature of gifts etc. In response

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to the query raised by the Assessing Officer, the assessee furnished the name of the entities from whom he had purchased the gift items, the name of doctors to whom such gifts were given, nature of gift item and price. After verifying the details furnished by the assessee, the Assessing Officer observed that various details called for were not furnished by the assessee. Accordingly, he disallowed the amount of Rs. 28,11,657/-.

2.2 The assessee challenged the aforesaid disallowance in an appeal before learned Commissioner (Appeals). After considering the submissions of the assessee, though, learned Commissioner (Appeals) agreed that expenditure incurred by pharmaceutical companies in giving gifts / freebies to doctors is an allowable expenditure u/s 37(1) of the Act, however, he confirmed the

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disallowance by holding that the assessee failed to provide the details of the persons to whom such gift items were given.

2.3 Learned Authorized Representative submitted, the assessee has furnished the purchase vouchers of the parties from whom gift items were purchased. He submitted, in view of such evidence filed by the assessee, the disallowance of expenditure is improper.

2.4 Learned Departmental Representative submitted, though, the assessee might have furnished the details of gift items purchased by furnished purchase invoices, however, except furnishing the name of the doctors, the assessee has not furnished the other details like their address, PAN etc. She submitted, in

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absence of necessary details furnished by the assessee, expenditure could not have been allowed.

2.5 We have considered the rival submissions and perused the material on record. Undisputedly, the assessee has claimed the disputed amount towards expenditure incurred in providing gift items to doctors. Learned Commissioner (Appeals) has agreed with the assessee that expenditure incurred towards providing gift items to doctors is an allowable expenditure. However, the disallowance made in the present case is due to lack of evidence. It is observed, during the assessment proceeding, the Assessing Officer had specifically called upon the assessee to furnish the details of expenditure incurred towards gift items such as address, PAN and details of gift items given to doctors. On perusal of details furnished before the Assessing officer, which is placed

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at page 09 to 11 of the paper book, it is noticed that the assessee has only mentioned name of the doctors to whom gift items were given without providing their address and PAN. It may be a fact that the assessee had furnished proof of purchase of gift items. However, the assessee also has to prove that gift items were actually given to the doctors. Since, the assessee did not furnish the address, PAN or any other details relating to the doctors to whom gift items were presented, the Assessing Officer, as well as, learned Commissioner (Appeals) were prevented from carrying out cross verification to ascertain whether actually the gift items were provided to the doctors concerned. By only providing the names of the doctors the assessee cannot absolve itself from discharging the onus of proving the genuineness of expenditure. In view of the aforesaid, we are inclined

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to restore the issue to the Assessing Officer for fresh adjudication, thereby providing an opportunity to the assessee to furnish further details relating to doctors to whom the gift items were allegedly presented, so that the Assessing Officer can verify the authenticity of assessee's claim. Accordingly, ground raised is allowed for statistical purposes.

3. Ground No. 2 is not pressed, hence dismissed.

4. In ground No. 3, assessee has confessed the disallowance of Rs. 3,24,383/- towards gift items provided to others.

4.1 Briefly the facts are, during the assessment proceeding the Assessing Officer noticed that the assessee has debited an amount of Rs. 1,62,19,152/- to the profit and loss account as expenses towards gift articles. Noticing this, the Assessing Officer