

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B" : HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

<b>ITA No.</b>	<b>A.Y.</b>	<b>Appellant</b>	<b>Respondent</b>
1433/Hyd/14	2010-11	The Income Tax Officer, Ward-16(2), HYDERABAD	M/s.Penn Bio Chemicals Pvt Ltd., HYDERABAD [PAN: AACCP0402E]
980/Hyd/14	2010-11	M/s.Penn Bio Chemicals India Pvt Ltd., HYDERABAD [PAN: AACCP0402E]	The Income Tax Officer, Ward-16(2), HYDERABAD

**C.O. No. 62/HYD/2014**

(in ITA No.1433/Hyd/2014)

Assessment Year: 2010-11

M/s.Penn Bio Chemicals Pvt Ltd.,  
HYDERABAD  
[PAN: AACCP0402E]

The Income Tax Officer,  
Vs Ward-16(2),  
HYDERABAD

**(Cross-Objector)**

**(Respondent)**

For Revenue : Shri Kiran Katta, DR  
For Assessee : NONE

Date of Hearing : 20-01-2020  
Date of Pronouncement : 23-01-2020

**ORDER**

**PER Smt. P. MADHAVI DEVI, J.M. :**

All these three appeals are filed against the orders of the Commissioner of Income Tax (Appeals)-V, Hyderabad, dated 27-03-2014.

2. Briefly stated facts are that assessee-company, engaged in the business of manufacture of pharmaceuticals, filed its return of income for the AY.2010-11 on 18-10-2010, declaring total income of Rs.13,53,145/-. The return of income was processed u/s.143(1) of the Income Tax Act [Act] and subsequently, the case was selected for scrutiny under CASS.

3. During the assessment proceedings u/s.143(3) of the Act, the Assessing Officer (AO) observed that – (i) the assessee has claimed sum of Rs.70.52 Lakhs u/s.35(2AB) of the Act, but has not filed Form-3CL in support of the same; (ii) There were outstanding balances of Sundry Creditors i.e., Mehta Pharma, Satyadeepth Pharma, Piyush Chemicals and J.P.Pharma; (iii) There were cash deposits in the bank accounts of SBI and the Indian Bank; and (iv) There were outstanding liabilities of Excise of Rs.19.26 Lakhs and VAT of Rs.9.29 Lakhs. The assessee was directed to explain the same, but since there was no compliance, the AO brought to tax the un-explained Sundry Creditors of Rs.64,90,565/-, the claim of deduction u/s.35(2AB) of the Act amounting to Rs.70,52,875/- and un-explained cash deposits in bank, amounting to Rs.12,72,800/-.

3.1. Aggrieved, the assessee filed an appeal before the CIT(A), along with additional evidence and the CIT(A) called for remand report from the AO on such evidence filed by the assessee. The AO filed the remand report, stating that the evidence filed by the assessee is not reliable. The assessee also filed its reply to the remand report and thereafter, the CIT(A) deleted the addition of un-explained cash deposits into bank accounts and also the

Sundry Creditors of Rs.64,90,565/-. However, he confirmed the disallowance of Rs.70,52,875/- on the ground that the assessee has not filed relevant forms in support of the claim u/s.35(2AB) of the Act.

Against the relief granted by the CIT(A), the Revenue is in appeal before us and the assessee is in appeal against the confirmation of the disallowance of claim u/s.35(2AB) of the Act.

4. At the time of hearing, none appeared on behalf of the assessee.

5. The Ld.DR has filed the copy of report of the AO that the notice of hearing before the Tribunal has been served at the last known address of the assessee by way of affixture. Since there is no compliance or appearance by the assessee before the Tribunal, we are constrained to consider the merits of the issue *ex-parte* the assessee.

6. Having regard to the fact that with regard to the Sundry Creditors, the assessee has filed confirmation letters of the creditors before the CIT(A) and in the remand report called for on those confirmation letters from the AO by the CIT(A), there is no comment by the AO, but the CIT(A) has deleted the addition made by the AO, we are of the opinion that the issue needs to be remanded to the file of CIT(A) for recalling a remand report on the same and re-consider the issue in accordance with law. Even with regard to the disallowance claim u/s.35(2AB) of the Act, which is the issue in the assessee's appeal and cross-objection, we find that this issue also needs re-consideration by the CIT(A) as the relevant

forms might have been received by the assessee subsequently from the relevant Ministry. Therefore, both the appeals of assessee and the Revenue as well as the cross-objections of assessee are remanded to the file of CIT(A) for re-consideration and re-adjudication on merits, in accordance with law.

7. In the result, both the appeals of assessee and the Revenue as well as the cross-objections of assessee are treated as allowed for statistical purposes.

*Order pronounced in the open court on 23<sup>rd</sup> January, 2020*

Sd/-  
**( A. MOHAN ALANKAMONY )**  
**ACCOUNTANT MEMBER**

Sd/-  
**( P. MADHAVI DEVI )**  
**JUDICIAL MEMBER**

Hyderabad, Dated 23<sup>rd</sup> January, 2020

TNMM

*Copy to :*

- 1. The Income Tax Officer, Ward-16(2), Hyderabad.*
- 2. M/s.Penn Bio Chemicals India Pvt.Ltd., 141/B, IDA, Mallapur, Hyderabad.*
- 3. CIT (Appeals)-V, Hyderabad.*
- 4. The CIT-IV, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*