

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "SMC" BENCH, HYDERABAD**

BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER

**ITA No. 1657/HYD/2017
(Asst. Year : 2007-08)**

M/s. Gamma Organics Ltd., vs. ITO, Ward-2(2),
Plot No. 207, Road No. 76, Hyderabad.
Jubilee Hills, Hyderabad.

PAN No. AADFG 4301 M (Appellant) (Respondent)

Assessee by : Shri A.V. Raghuram – AR.
Department By : Shri Kiran Katta – Sr.DR

Date of hearing : 02/12/2019.
Date of pronouncement : 22/01/2020.

ORDER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-2, Hyderabad, dated 30/06/2017 for the Assessment Year 2007-08.

2. Facts of the case, in brief, are that assessee-company is in the business of manufacturing of bulk drugs and intermediaries, filed its return of income by admitting loss of Rs. 8,22,757/-. The case of the assessee was selected for scrutiny and after following due procedure assessment was completed u/sec. 143(3) dated 24/12/2009. During the course of assessment proceedings, the Assessing Officer has noticed that the assessee-company has

admitted Rs. 23,70,729/- under the head 'income from other sources' being credit balances return back. When asked for clarification, it was stated that income admitted by the company under the head other income is nothing but business income as it is expenditure return back by the assessee which was claimed in earlier years also for the business carried on by the assessee. As there is no business activity during the year, it is proposed to disallow the expenditure of Rs. 32,15,295/- which includes depreciation allowance of Rs. 44,813/- and bank interest of Rs.31,50,175/-. In response to the above proposal of the Assessing Officer, the assessee has filed a letter by stating as under:-

"The company is incorporated during November, 2001 with a object to manufacture bulk drugs and intermediates. The performance of the company for the years 2000-01 and 2001-02 is under:-

<i>Financial Year</i>	<i>Turnover (Rs. In lakhs)</i>
<i>2000-01</i>	<i>420.73</i>
<i>2001-02</i>	<i>606.21</i>

Although the company does not have the required plant and machinery to carry out manufacturing activity, it issued to get its work done by using other companies infrastructure.

During the year, due to adverse business due to adverse business conditions coupled with inadequate working capital facilities, the operations of the company were severely affected and there is no activity for the subsequent period.

The company with an intention to restore to manufacture activity availed certain facilities from UCO Bank and deployed

these funds in other companies with an intention to develop certain high value products for the eventual business activity.

In view of this arrangement, we request you to kindly allow the interest amount of Rs. 31,50,175/- paid to UCO Bank as expenditure."

The Assessing Officer has considered the reply given by the assessee and observed that the company itself has mentioned that it did not carried out any activity during the year under consideration. Further, as per the annexure to the auditor report, the company has granted unsecured loans to group companies. The company has not charged any interest on these loans. In view of the above, the entire business expenditure claimed by the assessee is disallowed and assessment is completed accordingly.

3. On appeal, Id. CIT(A) confirmed the order of the Assessing Officer by observing that the assessee failed to establish that the company was carrying on its business activity during the year under consideration and the assessee failed to prove the commercial expediency.

4. Before me, Id. counsel for the assessee has submitted that interest free loans are given to the group companies, there is a business and commercial expediency between the assessee-company and its group companies, therefore the business expenditure incurred by the assessee has to be allowed.

5. On the other hand, Id.DR has strongly opposed and submitted that Assessing Officer and Id. CIT(A) have correctly decided the issue and requested to dismiss the appeal of the assessee.

6. I have heard both the parties and perused the material available on record.

7. It is a fact that assessee is not carrying any business during the year under consideration even subsequent years also. It is also a fact that assessee has given interest free loans to other companies without charging any interest. The assessee has incurred expenditure by paying interest to the banks. The case of the assessee is that interest free loans given to the group companies has to be treated as commercial expediency and expenditure has to be allowed. The assessee neither before the Assessing Officer nor before the Id. CIT(A), even before me, has not able to substantiate that the interest free loans given by the assessee to the group companies are for commercial expediency. The assessee also not able to substantiate that what is that business relationship with the assessee and the other companies particularly when the assessee-company itself is a closed, no activities are carried out how the interest free loans given by the assessee is a business expediency for the assessee company.

Therefore, I find that assessee failed to explain the proximity between the loans given to the group companies and business expediency to the assessee. Hence, I find no reason to interfere with the order passed by the Id. CIT(A). Thus, this appeal filed by the assessee is dismissed.

8. In the result, appeal filed by the assessee is dismissed.

Order Pronounced on this 22nd day of Jan., 2020.

Sd/-
(V. DURGA RAO)
Judicial Member

Dated: 22nd January, 2020.

vr/-

Copy to:

1. *The Assessee – M/s. Gamma Organics Ltd., Plot No. 207, Road No. 76, Jubilee Hills, Hyderabad.*
2. *The Revenue - ITO, Ward-2(2), Hyderabad.*
3. *The Pr.CIT-2, Hyderabad.*
4. *The CIT(A)-2, Hyderabad.*
5. *The D.R., Hyderabad.*
6. *Guard file.*

By order

Sr. Private Secretary,
ITAT, Visakhapatnam.