

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

AND

SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA No.864/Hyd/2019		
Assessment Year: 2014-15		
Kopalle Pharma Chemicals Private Limited, Hyderabad. PAN: AABCK 2442 C	Vs.	DCIT , Circle-2(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri Mohd. Afzal	
Revenue by:	Sri Rajeev Benjwal, DR	
Date of hearing:	17/10/2019	
Date of pronouncement:	17/01/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-8, Hyderabad in appeal No. 10233/CIT (A)-8/Hyd/2016-17, dated 28/03/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2014-15. The delay of 362 days in filing the appeal before us is condoned considering the merits of the case.

2. The assessee has raised the following grounds and additional grounds in its appeal and the concise grounds are as follows:

(i) The Ld. CIT (A) has erred in upholding the order of the Ld. AO who had upheld the order of the Ld. AO who had made addition with respect to the loan received from the following entities:-

(a)	M/s. Gram Organics Private Limited -	Rs. 30,78,000/-
(b)	M/s. Microbial and Technologies India Limited	- Rs. 50,52,000/-
(c)	Sri P. Rama Devendraj	- <u>Rs. 20,00,000/-</u>
	Total: -	<u>Rs.1,01,30,000/-</u>

(ii) The Ld. CIT (A) has erred in enhancing the addition for an amount of Rs. 5,25,648/- with respect to the loan received from M/s. Microbial and Technologies India Limited.

(iii) The Ld. CIT (A) has erred in enhancing the addition for an amount of Rs. 4,56,409/- with respect to the claim of the assessee that it is interest payable on unsecured loan aggregating to Rs. 1,06,55,648/-.

4. The brief facts of the case are that the assessee is a Private limited Company engaged in the business of manufacturing drugs and pharmaceuticals, filed its return of income for the AY 2014-15 on 29/11/2014 admitting total income of Rs. 1,24,98,280/-. Initially the return was processed u/s. 143(1) of the Act and thereafter the case was taken up for scrutiny because the unsecured loan creditors of the assessee had filed the return of income. Subsequently, assessment was

completed u/s. 143(3) of the Act on 14/12/2016 wherein the Ld. AO made addition of Rs. 1,01,30,000/- by treating the loan received from all the three entities viz., (a) M/s. Gram Organics Private Limited – Rs. 30,78,000/- ; (b) M/s. Microbial and Technologies India Limited - Rs. 50,52,000/- and (c) Sri P. Rama Devendraju – Rs. 20,00,000/- as bogus transactions. The ld. AO arrived at such a conclusion because M/s. Gram Organics Private Limited and M/s. Microbial and Technologies India Limited are group concerns and they have been either depositing cash in their bank accounts or receiving money from the group concerns and thereafter advancing them to the assessee company as unsecured loan. Moreover, those companies did not file their return of income. The other unsecured creditor Sri P. Rama Devendraju is one of the promoters of the assessee company and the source for all the three unsecured loan creditors were not established. On appeal, the ld. CIT (A) confirmed the order of the Ld. AO because even before him the source of the unsecured sundry creditor was not established. The ld. CIT (A) further enhanced the addition for Rs. 5,25,645/- and Rs. 4,56,409/- as there was under assessment with regard to short addition of loan of Rs. 5,25,648/- (Rs. 55,77,648 – Rs. 50,52,000) and towards disallowance of interest payment of Rs. 4,56,409/- with respect to the bogus transactions.

5. At the outset, the Ld. AR submitted before us that, one more opportunity may be provided to the assessee in order to establish the genuineness of the claim because the assessee now has all the evidence to support his argument. It was further pleaded that the assessee's financial position is precarious and if justice is denied it will bring irreparable loss to the assessee. The Ld. DR on the other hand vehemently argued in support of the orders of the Ld. Revenue Authorities.

6. We have heard the rival submissions and carefully perused the materials on the record. We do not find much strength in the arguments advanced by the Ld. AR. Even before us, at this stage, neither the assessee nor its representative has filed any evidence to prove the genuineness of the unsecured loans. However, taking into consideration the arguments advanced by the ld. AR, in the interest of justice, we hereby remit the matter back to the file of Ld. AO for de-novo consideration thereby providing the assessee with one more opportunity of being heard. However, at the same breath we hereby caution the assessee to promptly co-operate before the Ld. Revenue Authorities in their proceedings failing which the ld. Revenue Authorities shall be at liberty to pass appropriate orders in accordance with law and merit based on the materials on record.

7. In the result, appeal of the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 17th January, 2020.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 17th January, 2020.

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Copy to:-

- 1) Kopalle Pharma Chemicals private Limited C/o. Mhd Afzal. Advocate, 402, Sherson's Residency, 11-5-465, Criminal Court Road, Red hills, Hyderabad - 04.
- 2) DCIT, Circle-2(10, Signature Towers, Hyderabad.
- 3) The CIT (A)-8, Hyderabad.
- 4) The Pr. CIT-2, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File