

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "J", MUMBAI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

ITA NO.1659/MUM/2016(A.Y.2011-12)

Puratos Food Ingredients India Private Limited,
Level 4, The Centrium, Phoenix Market City,
LBS Marg, Kurla (West)
Mumbai 400 070
PAN:AADCP 4743M

..... Appellant

Vs.

Dy. Commissioner of Income-tax,
Circle.3(2)(2), 6th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai- 400 020

..... Respondent

Appellant by : Shri Kishore Patel
(Withdrawal letter dt.24/01/2020)

Respondent by : Shri Uodal Raj Singh

Date of hearing : 18/02/2020

Date of pronouncement : 18/02/2020

ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the assessment order dated 29/01/2016 passed under section 143(3) r.w.s.144C(1) and section 92CA of the Income Tax Act, 1961 (in short 'the Act') for the assessment year 2011-12.

2. Shri Kishore Patel appeared on behalf of the assessee and filed a request letter dated 24/01/2020, signed by Director/authorized Signatory of the assessee company to withdraw the appeal. The relevant extract of the same is reproduced herein below:-

“Re : Puratos Food Ingredients India Pvt. Ltd ('Company' or 'Appellant')
 Appeal No : ITA 1659/M/2016
 Asst Year : 2011-12
 Sub : Hearing fixed on 18.02.2020 — Request for withdrawal of appeal

In the above matter, we state as under:

- 1) *The above appeal was filed on 22.03.2016 against the transfer pricing adjustments made in the assessment.*
- 2) *While reviewing the situation at a macro level, we find that, as on date, the Company has suffered losses year after year. The status of carried forward losses as per the Return of Income filed for AY 2019-20 is as under:*

Assessment Year	Unabsorbed Business Loss (Rs.)	Unabsorbed Depreciation (Rs.)	Total (Rs.)
2010-11	-	45,35,057	45,35,057
2011-12	2,22,50,915	93,01,096	3,15,52,011
2012-13	5,12,76,817	85,49,668	5,98,26,485
2013-14	3,32,81,430	79,94,220	4,12,75,650
2014-15	3,54,97,271	76,49,842	4,31,47,113
2015-16	1,62,76,535	99,64,924	2,62,41,459
2016-17	42,38,161	6,52,51,497	6,94,89,658
TOTAL	16,28,21,129	11,32,46,304	27,60,67,433

- 3) *As can be observed from the above, there are substantial brought forward losses. The transfer pricing adjustment made in the assessment is Rs.91,68,285/- (as per Grounds 2 & 3). The outcome of the appeal before the ITAT is not going to impact the Company financially. Whether the outcome of the appeal before ITAT is in favour of the Company or against the Company, there will remain substantial unabsorbed business loss as on 31.03.2019.*

If the appeal is allowed, the loss for AY 2011-12 will only increase. However, the unabsorbed loss of Rs.2,22,50,915/- as indicated above has already lapsed since

AY 2019-20 was the last year for set off. The addition to loss, if the appeal is allowed, will not give any economic benefit to the Appellant.

If the appeal is not allowed then also the Company will not be worst off since there is the loss of Rs.2,22,50,915/- which has lapsed.

- 4) Thus, the management of the Company, solely on the economical & commercial considerations and as prudent management, have decided to request the Hon'ble Members to permit the Company to withdraw the present appeal.*
- 5) We would like to emphasis that the request for withdrawal of the present appeal is purely and solely on economic and commercial considerations, as explained above, and in no way based on the merits of the transfer pricing adjustments made. Hence, the withdrawal of appeal should not be construed as acceptance by the Company of the transfer pricing adjustment made.*
- 6) We request the Hon'ble Members to permit the Company to withdraw the present appeal and also request that the above facts & submissions be recorded in the Order that may be passed by the Hon'ble Bench in disposing off the present appeal so that adverse inference is not drawn at a later date in any proceedings before lower authorities.*

Thanking you.

Yours faithfully,

For Puratos Food Ingredients India Pvt Ltd.

Sd/-

Director/Authorised Signatory"

3. Shri Uodal Raj Singh, representing the Department stated at the bar that the Department has not objection in assessee withdrawing the appeal.

4. In view of the request made on behalf of the assessee, the appeal is dismissed as withdrawn.

Order pronounced in the open court at the time of hearing on Tuesday the 18th day of February, 2020.

Sd/-
(G.MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Mumbai, Dated 18/02/2020
Vm, Sr. PS(O/S)

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai