

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC-III” BENCH, MUMBAI

BEFORE SHRI SHAMIM YAHYA, AM

ITA No. 1866/Mum/2019
(Assessment Year: 2014-15)

M/s. Golden Temple Pharma LLP 107/108, Anand Estate, N. M. Joshi Marg, Chinchpokli, Mumbai-400 011	Vs.	ITO-21(1)(4) Room No. 108, 5 th Floor, Piramal Chambers, Lalbaug, Parel, Mumbai-400 012
PAN/GIR No. AALFG 8399 P		
(Appellant)	:	(Respondent)
Appellant by	:	None
Respondent by	:	Shri Kailash Gaikwad
Date of Hearing	:	13.10.2020
Date of Pronouncement	:	11.12.2020

ORDER

Per Shamim Yahya, A. M.:

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-48, Mumbai (‘Id.CIT(A) for short) dated 13.02.2019 and pertains to the assessment year (A.Y.) 2014-15.

2. The issue raised is that Id. CIT(A) erred in sustaining the addition of Rs.15,60,720/- as interest income.

3. Brief facts of the case are that the Assessing Officer (A.O. for short) in this case made addition of Rs.15,60,720/- holding that the same was interest accrued and the assessee has not accounted for the same, despite the assessee following mercantile system of accounting.

4. Before the Id.CIT(A), the assessee submitted that the assessee is following cash system and the assessee also produced a certificate from the party, in which it was duly stated that the said interest has not been paid during the assessment year. However, the Id. CIT(A) was not convinced. He accepted the A.O.’s observation that since the assessee

had been following mercantile system of accounting earlier, for this year he cannot change the same to cash system. Though, in this regard, the A.O. has duly noted that in assessee's books of account, for the present assessment year it was duly mentioned that the assessee is following cash system of accounting.

5. Against the above order, the assessee is in appeal before the ITAT.

6. I have heard the Id. Departmental Representative (Id. DR for short) and perused the records. I note that assessee has not received the interest during the year. This aspect has been duly certified by the creditor. In this view of the matter, when the assessee has not received the interest, the assessee cannot be forced to account for the same when the assessee's books of accounts are being maintained on cash system. Hence, I set aside the orders of authorities below and delete the addition. However, I note that when the income is not being accounted for, the assessee also cannot claim the TDS in this regard. Hence, the A.O. shall examine this aspect and give effect to the observation.

7. In the result, the appeal filed by the assessee stands party allowed.

Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the details on the notice board on 11.12.2020

Sd/-
(Shamim Yahya)
Accountant Member

Mumbai; Dated :

Roshani, Sr. PS

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai