

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH**  
**(VIRTUAL COURT)**

**श्री एन.के.सैनी, उपाध्यक्ष एवं श्री आर.एल. नेगी, न्यायिक सदस्य**  
**BEFORE: SHRI. N.K.SAINI, VP & SHRI , R.L. NEGI, JM**

आयकर अपील सं./ ITA No. 1096/Chd/2019

निर्धारण वर्ष / Assessment Year : 2017-18

|   |      |   |
|---|------|---|
| M/s Midas Naturals Pvt. Ltd.<br>17-18-19, Apex Nagar, Barewal Road<br>Near Westend Mall, Ludhiana | बनाम | The Dy. Commissioner of Income<br>Tax<br>Central Circle-1, Ludhiana |
| स्थायी लेखा सं./PAN NO: AAJCM3756D  |      |   |
| अपीलार्थी/Appellant   |      | प्रत्यर्थी/Respondent   |

निर्धारिती की ओर से/Assessee by : Shri Ashwani Kumar, CA

राजस्व की ओर से/ Revenue by : Shri Ashok Khanna, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 13/01/2021

उद्घोषणा की तारीख/Date of Pronouncement : 21/01/2021

**आदेश/Order**

**PER N.K. SAINI, VICE PRESIDENT**

This is an appeal by the Assessee against the order dt. 28/06/2019 of Ld. CIT(A)-5, Ludhiana.

2. The only ground raised in this appeal reads as under:

*" That order passed u/s 250(6) of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals)-5, Ludhiana is against law and facts on the file in as much as he was not justified to arbitrarily uphold an addition of Rs. 1,07,282/- on account of cash found short by invoking the provisions of Section 69A of the Income Tax Act, 1961 and also upholding the action of the Learned Assessing Officer that the same be charged to tax u/s 115BBE."*

3. Facts of the case in brief are that the search and seizure operation was conducted on 31/08/2016 in the case of M/s AP Group of cases and the assessee company is an offshoot of M/s AP Refinery Pvt. Ltd. Jagraon. The A.O. asked the assessee to file its return of income by issuing the notice under section 143(2) of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). In response

the assessee furnished the return of income on 28/09/2017 declaring loss of Rs. 14,99,59,378/-. The A.O. observed that during the course of search physical inventory of the cash was prepared which revealed that the cash in hand was at Rs. 13,12,000/- where as in the Bank Account it was at Rs. 14,19,282/-, there was a difference of Rs. 1,07,282/-. The submission of the assessee as regards to the aforesaid difference of cash was that the certain expenses were incurred but not entered into the cash book. The A.O. however made the addition by observing that no such details had been brought on record for verification by the assessee.

4. Being aggrieved the assessee carried the matter to the Ld. CIT(A) who sustained the addition made by the A.O.

5. Now the assessee is in appeal.

6. Ld. Counsel for the Assessee at the very outset stated that an identical issue having similar facts has been adjudicated in favour of the assessee in ITA No. 1279/Chd/2019 for the A.Y. 2017-18 in the case of M/s A.P. Refinery Pvt. Ltd. Vs. DCIT, Central Circle-1, Ludhiana vide order dt. 16/10/2020 by the ITAT Chandigarh Bench 'A', Chandigarh. It was also stated that the assessee also belongs to the same group to which the aforesaid assessee i.e; M/s A.P Refinery Pvt. Ltd. Jagraon belongs, copy of the said order was furnished which is placed on record.

7. In his rival submissions the Ld. DR although supported the orders of the authorities below but could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

8. We have considered the submissions of both the parties and perused the material available on the record. It is noticed that an identical issue having similar facts has already been adjudicated by the ITAT, Chandigarh Bench 'A', Chandigarh vide order dt. 16/10/2020 in the aforesaid referred to case and the

relevant findings have been given at para 14 of the said order which read as under:

14. We have heard both the parties. The issue before us relates to addition made to the income of the assessee on account of cash found short with the assessee. Cash short, at the most represents expenses / outgoings out of cash available with the assessee not accounted for in the books of the assessee. Such unaccounted expenses are sourced from cash available with the assessee. How therefore can they be treated or deemed to be income of the assessee u/s 69/69B/69C of the Act when the said sections deem investments/money, the source of which the assessee offers no explanation about, as income of the assessee .

We therefore hold that there is no case for making any addition on account of cash found short with the assessee and the addition so made of Rs.9,06,522/- is directed to be deleted.

So respectfully following the aforesaid referred to order dt. 16/10/2020 in the case of M/s A.P. Refinery Pvt. Ltd. Vs. The DCIT, Central Circle-1 Ludhiana, the addition of Rs. 1,07,282/- made by the A.O. and sustained by the Ld. CIT(A) is deleted.

9. In the result, appeal of the assessee is allowed.

(Order pronounced in the open Court on 21/01/2021 )

Sd/-

Sd/-

**आर.एल. नेगी**

**(R.L. NEGI)**

**न्यायिक सदस्य/ Judicial Member**

**AG**

**Date:21/01/2021**

**एन.के.सैनी,**

**( N.K. SAINI)**

**उपाध्यक्ष / VICE PRESIDENT**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File