

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B", HYDERABAD  
(Through Virtual Hearing)

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER  
AND  
SHRI S.S. GODARA, JUDICIAL MEMBER

ITA No. 338/Hyd/2017		
AY: 2013-14		
Hansa Surgicals Pvt Ltd., Hyderabad. PAN: AAACH 5044 A	Vs	ACIT, Circle-2(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri P. Murali Mohana Rao	
Revenue by:	Shri Y.V.S.T. Sai, CIT-DR	
Date of hearing:	24/02/2021	
Date of pronouncement:	25/02/2021	

ORDER

PER A. MOHAN ALANKAMONY, AM:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-2, Hyderabad in appeal No. 0416/2015-16, dated 15/11/2016 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2013-14.

2. The assessee has raised several grounds in its appeal however, the crux of the issue is that

- "1. The order of the Ld. CIT(A) Hyderabad is erroneous both on facts and in law.*
- 2. The Ld. CIT(A) erred in upholding the disallowance made U/s. 37(1) for an amount of Rs. 1,74,54,724/-.*

3. *The Ld. CIT(A) ought to have appreciated the fact that the assessee has incurred expenditure amounting to Rs. 1,74,54,724/- in the regular conduct of business activity.*
4. *The Ld. CIT(A) ought to have appreciated the fact that expenditure that has been debited in the P & L Account is wholly and exclusively incurred for the purpose of business activity only which is an allowable expenditure 37(1) of the Income Tax Act, 1961.*
5. *The Ld. CIT(A) erred in upholding the disallowance made towards unpaid sales tax & VAT of Rs. 9,63,627/-.*
6. *The Ld. CIT(A) ought to have appreciated the fact that Sales tax and VAT amounting to Rs. 9,63,627/- has been paid with some delay but has been paid well before the due date of filing of return of income.*
7. *The Ld. CIT(A) ought to have appreciated the fact that no disallowance can be made to the expenditure mentioned in section 43B of the Act, if they are paid before the due date for filing of return of income U/s. 139(1) of the Act.*
8. *The Ld. CIT(A) erred in upholding the disallowance made towards loss on sale of assets of Rs. 7,03,014.*
9. *The Ld. CIT(A) ought to have appreciated the fact that the vehicles have been used wholly and exclusively for the purpose of business activity only. Therefore, the loss on sale of fixed assets should be allowed U/s. 37(1) of the Act.*
10. *The Ld. CIT(A) erred in upholding the addition made U/s. 68 of the Act for Rs. 16,43,65,075/-.*
11. *The Ld. CIT(A) ought to have appreciated the fact that the assessee has submitted all the information regarding the unsecured creditors at the time of assessment.*
12. *The Ld. CIT(A) ought to have appreciated the fact that the assessee has proved the identity, creditworthiness of the person as well as the genuineness of the transactions by submitting the confirmation letters and relevant documents in support of the unsecured creditors.*
13. *The assessee may add, alter or modify or substitute any other point to the ground of appeal at any time before or at the time of hearing of the appeal.”*

3. At the outset, the Ld. AR submitted before us that the assessee has filed additional evidence before the Tribunal therefore the matter may be remitted back to the file of the Ld. AO for de-novo consideration. The Ld. AR further submitted that substantial additions were made by the Ld. AO which was further sustained by the ld. CIT (A) as the assessee was not able to furnish documentary evidence towards the same due to various constraints. It was therefore pleaded that one more opportunity may be provided to the assessee in order to avoid miscarriage of the justice otherwise it would bring irreparable loss to the assessee.

4. The Ld. DR on the other hand, vehemently argued for sustaining the orders of the Ld. Revenue Authorities since the Ld. Revenue Authorities have provided proper opportunity to the assessee of being heard.

5. We have heard the rival submissions and carefully perused the materials on record. On perusing the order of the Ld. Revenue Authorities, we find that the assessee has not furnished sufficient evidence before the ld. Revenue Authorities and therefore, they had no other option but to make substantial additions in the hands of the assessee. This lapse on the part of the assessee is not appreciable. However, since now they have

furnished fresh evidence before the Tribunal and since the addition made by the Ld. Revenue Authorities is substantial, in the interest of justice, we hereby remit the matter back to the file of the ld. AO for de-novo consideration with direction to admit and examine the additional evidence filed by the assessee and thereafter pass appropriate order in accordance with law and merit. We also caution the assessee to promptly co-operate before the Ld. Revenue Authorities failing which they shall be at liberty to pass appropriate order based on the materials on record.

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

Pronounced in the open Court on the Twenty Fifth of February, 2021.

Sd/-  
(S.S. GODARA)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 25<sup>th</sup> February, 2021.

OKK  
Copy to:-

- 1) M/s. Hansa Surgicals Pvt Ltd., C/o. P. Murali & Co, Chartered Accountants, 6-3-655/2/3, Ist Floor, Somajiguda, Hyderabad-82.
- 2) ACIT, Circle-2(2), Hyderabad.

- 3) The Commissioner of Income Tax (Appeals)-2, Hyderabad.
- 4) The Principal Commissioner of Income Tax-2, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File