

THE INCOME TAX APPELLATE TRIBUNAL  
"C" Bench, Mumbai  
Shri Shamim Yahya (AM) & Shri Pavankumar Gadale (JM)

I.T.A. No. 6701/Mum/2019 (Assessment Year 2013-14)

M/s. Isagro (Asia) Agro Chemicals Private Limited Unit No. 1, Gr.-2 <sup>nd</sup> Floor Brady Glady Plaza, 1-447 Senapati Bapat Marg Lower Parel Mumbai-400 013.  PAN : AAAC18431L (Appellant)	Vs.	DCIT 6 <sup>th</sup> Floor Aayakar Bhavan M.K. Road Mumbai- 400020.  (Respondent)
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Assessee by	None
Department by	Shri Manpreet Singh Duggle
Date of Hearing	05.05.2021
Date of Pronouncement	01.07.2021

ORDER

Per Shamim Yahya (AM) :-

The appeal by the assessee is directed against the order of learned CIT(A) dated 16.1.2017 for assessment year 2013-14.

2. The grounds of appeal read as under :-

“1. Ld. CIT(A) erred in confirming disallowance of Rs.1,15,734/- being club expenses incurred by the appellant observing that there is no evidence to show that said expenditure incurred by a Director are incurred wholly and exclusively for business purpose.

2. Ld.CIT(A) erred in not considering the fact that expenses were incurred through Managing Director of the company, not a shareholder for the purpose of the business of the company and there is nothing to show that expenses were not incurred for the business of the appellant.

3. Appellant prayed that disallowance made be deleted.”

3. Brief facts of the case are that during the course of assessment proceedings, the AO observed from Column 21(a) of the Tax audit report that assessee incurred club expenses amounting to Rs.1,15,734/- and asked the

assessee as to why disallowance in audit report were not taken into consideration during the computation of income and why the aforesaid amount should be allowed as deduction. In reply assessee submitted that expenses are in the nature of business promotion incurred by the Mg Director for the purpose of business for meeting with the customers, dealers, stockists of the company and hence are allowable as business expenditure. However, A.O. did not accept the contention of the assessee on the ground that assessee failed to establish that such club membership resulted in promotion of its business and it was a personal privilege entitling the member.

4. Upon assessee's appeal learned CIT(A) confirmed the disallowance.

5. Against this order assessee is in appeal before us.

6. We have heard learned Departmental Representative and perused the records. It will be gainful to refer to the wisdom expressed by the Assessing Officer in giving his reasons for rejecting assessee's contention without narrating as to what enquiry he has made.

"The membership of the club is a personal privilege entitling the member to use and enjoy the property of the club and all other amenities, benefits and facilities provided therein. The club is therefore a meeting place for relaxation, recreation, entertainment, amusements and social interaction. But can it be said that membership of the club either by Director or any Executives of a company results in promotion of business. It may be remotely possible but then the onus is on the assessee to establish that the club membership has promoted its business, with evidence."

7. Learned CIT(A) while confirming the disallowance has not dealt with the above reasoning. In our considered opinion there is no presumption that there cannot be a business meeting in a club and it is only meant for relaxation. Moreover, there is nothing on record as to what evidence was required which assessee failed to provide. Hence, the disallowance being based upon surmises and conjecture is not sustainable. Hence, we set aside the order of learned CIT(A) and direct that the expenditure is to be allowed.

8. In the result, assessee's appeal is allowed.

Pronounced in the open court on 1.7.2021.

Sd/-  
(PAVANKUMAR GADALE)  
JUDICIAL MEMBER

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Mumbai; Dated : 01/07/2021

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//

PS

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai