

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “A” BENCH**

**BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI WASEEM AHMED, ACCOUNTANT MEMBER
[Virtual Court]**

आयकर अपील सं./I.T.A. Nos. 2377 to 2379/Ahd/2018
(निर्धारण वर्ष / Assessment Years: 2009-10 to 2011-12)
&
Cross Objection Nos.138 to 140/Ahd/2019
(निर्धारण वर्ष / Assessment Years: 2009-10 to 2011-12)

DCIT, Circle-2(1)(1), Ahmedabad	बनाम/ Vs.	Intas Pharmaceuticals Ltd. (Erstwhile Known as Intas Pharmaceuticals), Ahmedabad PAN No. AACFI0241H
Intas Pharmaceuticals Ltd. (Erstwhile Known as Intas Pharmaceuticals), Ahmedabad PAN No. AACFI0241H	बनाम/ Vs.	DCIT, Circle-2(1)(1), Ahmedabad
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Virendra Ojha, CIT/D.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Vartik Chokshi, A.R.

सुनवाई की तारीख / Date of Hearing	20/07/2021
घोषणा की तारीख /Date of Pronouncement	30/07/2021

आदेश/ORDER

PER BENCH

The captioned appeals have been filed at the instance of the Revenue and the assessee has also filed CO against the order of the learned Commissioner of Income Tax (Appeals)- 12 Ahmedabad {(CIT-A in short)} dated 25 September 2018 arising out of assessment order dated 29-12-2011 for the assessment years 2009-10 to 2011-12.

2. Briefly stated facts of the case are that the assessee, a partnership firm is eligible for deduction under section 80-IC of the Act. It filed its return of income declaring total income of Rs.10,89,250.00 only after deduction of Rs.80,08,37,425.00 under section 80-IC of the Act. The assessee is engaged the business of manufacturing and selling of pharmaceuticals product. The entire sale was made by the assessee to its holding company namely Intas pharmaceuticals Ltd.

3. The AO during the assessment proceedings found that the assessee was claiming only few expenses against the sale of its products. The assessee, though engaged in the manufacturing unit, has incurred small expense under the head research and development which is 0.73% of the total expenses. Likewise, the assessee has also not furnished the supporting documents for packaging expenses incurred by it.

4. As per the AO, the assessee was showing higher amount of gross as well as net profit being a unit eligible for deduction under section 80IC of the Act which is nothing but the inflated profit. As such the assessee has not claimed various expenses and diverted them to other group companies. Thus the AO rejected the books of accounts and determined the profit at Rs. 40,04,60,962.00 being 25% of the turnover.

However, the AO was pleased to grant the deduction under section 80 IC of the Act for the amount of profit determined by him.

5. Aggrieved assessee preferred an appeal to the learned CIT (A) who has enhanced the income of the assessee at Rs.67,96,17,810 and simultaneously allowed the deduction under section 80-IC of the Act.

6. Being aggrieved by the order of the learned CIT (A), both the Revenue and the assessee are in appeal and the CO before us.

7. At the outset the learned AR before us submitted that appeals filed by the Revenue are not maintainable for the reason that whatever amount has been determined as income of the assessee, the same was allowed as deduction under section 80-IC of the Act, raising nil demand of tax. Accordingly the learned AR contended that the appeals filed by the Revenue should be dismissed in limine.

8. On the contrary, the learned DR agreed to the proposition projected by the learned AR for the assessee that the appeals filed by the Revenue are not maintainable.

9. The learned AR in his rejoinder submitted that if the appeals of the Revenue are not maintainable, then he doesn't want to press the issue raised by the assessee in the CO.

10. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, there is no effect on the tax liability on the assessee on account of the reduction made in the deduction claimed under section 80 IC of the Act. In other words, whatever amount of deduction is reduced by allocating the expenses which is resulting the deduction in the amount of profit that will get adjusted in the deduction available to the assessee under section 80 IC

of the Act. Thus the entire exercise carried out by the Revenue is tax neutral. Accordingly, we hold that the appeals filed by the Revenue are not maintainable.

11. It is also pertinent to note that as there is no demand of tax in the appeals filed by the Revenue, these appeals are also not maintainable in view of the CBDT Circular No. 17 of 2019 dated 8-8-2019. As per the circular all pending appeals filed by the Revenue are liable to be dismissed as a measure for reducing tax litigation where the tax effect does not exceed the prescribed monetary limit which is at Rs.50 lakhs. Therefore, all the appeals filed by the Revenue are dismissed in limine.

C.O. Nos. 138 to 140/Ahd/2019 for A.Ys. 2009-10 to 2011-12

12. At the outset, ld. A.R. requested that he does not want to press C.O., therefore, same are dismissed as not pressed.

13. In the combined result, all the appeals of the Revenue and C.O. of the Assessee are dismissed

This Order pronounced in Open Court on 30/07/2021

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 30/07/2021

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद /
DR, ITAT, Ahmedabad
6. गार्ड फाइल / Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण, अहमदाबाद ।