

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

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI AMARJIT SINGH, ACCOUNTANT MEMBER)**

[Through Virtual Court]

**ITA. No: 2635/Ahd/2017
(Assessment Years: 2013-14)**

Dipal Chem Pvt. Ltd. 2, Anand Park Society, Naranpura Gam Bus Stand, Naranpura, Ahmedabad-380013	V/S	I.T.O., Ward-1(1)(4), Ahmedabad
PAN No. AABCD7081J		
(Appellant)		(Respondent)

**Appellant by : Shri Pritesh Shah, A.R.
Respondent by : Shri R. R. Makwana, Sr. D.R.**

(आदेश)/ORDER

Date of hearing : 06-09-2021
Date of Pronouncement : 21 -09-2021

PER MAHAVIR PRASAD, J.M.

1. This appeal has been filed by the Assessee is directed against the order of the Ld. CIT(A) vide Appeal No. CIT(A)-1/ITO Ward-1(1)(4)/197/2016-17 order dated

16/10/2017 arising out of assessment order dated 05/02/2016. The assessee has taken following grounds of appeal:

1) The Ld. CIT(A) erred in law and on facts in confirming the disallowance of Commission expenses amounting to Rs. 27,53,944/-, such disallowance is requested to be deleted.

2. In this case, assessee is engaged in the business of Trading & manufacturing of chemical business.
3. During the year under consideration, assessee has claimed certain commission expenses made to the different parties and payments were made through cheque and in some of the cases, TDS was also deducted. But when Ld. A.O. issued noticed to the person to whom commissions were made. They did not appear before the Ld. A.O. and assessee could not produce recipient of commission and thereafter Ld. A.O. disallowed commission expenses of Rs. 27,53,944/-.
4. Thereafter assessee preferred first statutory appeal before the Ld. CIT(A) who confirmed the action of the Assessing Officer.
5. Now assessee has come before us by way of second statutory appeal.
6. We have gone through the relevant record and impugned orders. In this case, commissions have been paid by the assessee to different parties and their Income Tax return have been filed by the assessee and in some of the cases, TDS has also been deducted by the assessee. But lower authorities disagree with the contention of the assessee and held that assessee could not prove genuineness of the transaction for which commissions have been paid. We consider it appropriate that in order to do business assessee had to pay commission otherwise how assessee carry on its business activities.

7. We have heard both the parties and gone through the impugned order. Ld. A.R. on behalf of the assessee has filed first time a paper book containing relevant details and argued that recipient of the commissions have shown their commission income in their Income Tax return and some of the recipients TDS have also been deducted. Therefore in the interest of justice for limited verification purpose, we set aside this matter to the file of the Assessing Officer to verify ITR's of recipient of commission and will also verified Form No. 26AS. If after verification above details found to be correct then Ld. A.O. shall allow the commission expenses to the assessee and delete the addition.
8. In the result, appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in Open Court on 21- 09- 2021

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 21/09/2021

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad