

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H" MUMBAI**

**BEFORE SHRI PRAMOD KUMAR (VICE PRESIDENT) AND
SHRI RAVISH SOOD (JUDICIAL MEMBER)**

**ITA No.1253/MUM/2020
(Assessment Year: 2011-12)**

M/s Kanti Beverages Pvt. Ltd. 3 rd Floor, 26, New Vora Building, 59, Nakhoda Street, Tamba Kanta, Mumbai – 400 003	Vs.	DCIT 6(3)(2) Room No. 522, 5 th Floor, Aayakar Bhavan, Maharishi Karve Road, Mumbai – 400 020
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PAN No. AABCK7186K

(Assessee)

(Revenue)

Assessee by	: Ms. Neha Paranjpe, A.R
Revenue by	: Shri Gurbinder Singh, D.R

Date of Hearing	: 16/09/2021
Date of pronouncement	: 23/09/2021

ORDER

PER RAVISH SOOD, J.M:

The present appeal filed by the assessee is directed against the order passed by the CIT(A)-12, Mumbai, dated 14.01.2020, which in turn arises from the order passed by the A.O u/s 143(3) of the Income Tax Act, 1961 (for short 'Act'), dated 11.02.2014 for A.Y. 2011-12. The assessee has assailed the impugned order on the following grounds before us:

"1(a). On the facts and circumstances of the case, the Id. Commissioner of Income Tax (Appeals)-12 erred in confirming the addition of Rs.15,77,386/- on account of ad hoc Disallowance of Cash Expenses, confirming the ad hoc Disallowance made by the A.O."

2. Briefly stated, the assessee company which is engaged in the business of manufacturing of pet performs and soft drinks had filed its return of income for

A.Y 2011-12 on 24.09.2011, declaring a loss of (-) Rs. 2,31,85,362/-. Subsequently, the assessee filed a revised return of income on 12.02.2013 declaring a loss of (-) Rs.2,20,27,275/-. The return of income filed by the assessee was processed as such u/s 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny assessment u/s 143(2) of the Act.

3. During the course of the assessment proceedings, it was, inter alia, observed by the A.O that the assessee had claimed to have incurred cash expenses aggregating to an amount of Rs. 78,89,182/- at its offices, viz. (i). Mandideep office : Rs.62,69,331/-; and (ii). Mumbai office: Rs.16,19,851/-. On being called upon to produce supporting evidence qua incurring of the aforesaid cash expenditure the assessee is stated to have filed self made vouchers. Observing, that the assessee had failed to place on record any concrete evidence in support of its aforesaid claim of expenditure, the A.O on an ad hoc basis disallowed 20% of such expenses and made a consequential addition of Rs.15,77,836/-. After, inter alia, making the aforesaid ad hoc disallowance of cash expenses, the A.O vide his order passed u/s 143(3), dated 11.02.2014 assessed the loss of the assessee company at (-) Rs.1,98,64,519/-.

4. Aggrieved, the assessee, inter alia, assailed the aforesaid ad hoc disallowance of cash expenses before the CIT(A). Observing, that the assessee had failed to discharge the primary onus that was cast upon it to prove the genuineness of its claim of having incurred the aforesaid expenditure wholly and exclusively for the purpose of its business, the CIT(A) upheld the disallowance made by the A.O.

5. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us. It was submitted by the Id. Authorized Representative (for short 'A.R') for the assessee that both the lower authorities had in a most arbitrary manner disallowed/sustained the assessee's claim for deduction of the

aforesaid expenditure, despite the fact that the same was incurred wholly and exclusively for the purpose of its business. It was the claim of the Id. A.R that the solitary basis for making/sustaining the aforesaid disallowance of expenditure by the lower authorities was that the same was only supported by self made vouchers of the assessee. It was submitted by the Id. A.R that neither of the lower authorities had pointed any such voucher the genuineness of the expenditure therein claimed to have been incurred by the assessee company wholly and exclusively for the purpose of its business did not inspire any confidence. It was further submitted by the Id. A.R that it was also not the case of the revenue that any part of the expenditure in question was either found to be bogus, or was found to have not been incurred by the assessee wholly and exclusively for the purpose of its business. Backed by her aforesaid contentions, it was submitted by the Id. A.R that the disallowance made by the A.O was totally unwarranted and could not be sustained.

6. Per contra, the Id. Departmental Representative (for short 'D.R') relied on the orders of the lower authorities.

7. We have heard the Id. Authorized Representatives for both the parties, perused the orders of the lower authorities and the material available on record. As is discernible from the orders of the lower authorities, it is a matter of fact that the ad hoc disallowance of the cash expenses have been made by the A.O, for the standalone reason, that the same were merely supported by self made vouchers of the assessee. At this stage, we may herein observe that neither of the lower authorities had observed that any part of the expenditure in question was either not found to have been incurred wholly and exclusively for the purpose of the assessee's business or was found to be bogus. Apart from that, we find that neither of the lower authorities had referred to any such self made voucher wherein the genuineness of the assessee' claim of having incurred the expenditure wholly and exclusively for the purpose of its business did not inspire

any confidence. In the backdrop of the aforesaid facts, we find substantial force in the claim of the Id. A.R that devoid of any specific infirmity qua the assessee's claim for deduction of the aforesaid expenditure by the lower authorities, the disallowance of a part of the same in a most arbitrary manner on an ad hoc basis could by no means be held to be justified. Our aforesaid view is fortified by the order of the ITAT, Kolkata in the case of Animesh Sadhu Vs. ACIT, Circle-1, Hoogly, ITA No. 11/Kol/2013, dated 12.11.2014 and that of the ITAT, Delhi in the case of ACIT, New Delhi Vs. M/s Modi Rubber Ltd. ITA No. 1952/Del/2014, dated 15.05.2018. Accordingly, in the totality of the facts involved in the case before us, we are unable to concur with the ad hoc disallowance of the expenses in question by the A.O. We, thus, not finding favor with the view taken by the lower authorities set-aside the order of the CIT(A) and vacate the disallowance of Rs.15,77,836/- made by the A.O. The **Ground of appeal No. 1** raised by the assessee is allowed.

8. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 23.09.2021

Sd/-
(Pramod Kumar)
VICE PRESIDENT

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Mumbai;
Dated: 23.09.2021
*PS: Rohit

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.

BY ORDER,
//True Copy//

(Sr. Private Secretary)
ITAT, Mumbai