

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद ।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘D’

BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
AND
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.1229/Ahd/2019

Asstt.Year : 2012-13

Intas Pharmaceuticals Since Merged with Intas Pharmaceuticals Ltd. Nr.Sola Bridge, SG Highway, Thaltej, Ahmedabad. PAN : AACFI 0241 H	Vs	ACIT, Cir.5(2) Ahmedabad.
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आयकर अपील सं./ ITA No.1312/Ahd/2019

Asstt.Year : 2012-13

DCIT, Cir.5(2) Ahmedabad.	Vs	Intas Pharmaceuticals Since Merged with Intas Pharmaceuticals Ltd. Nr.Sola Bridge, SG Highway, Thaltej Ahmedabad. PAN : AACFI 0241 H
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Vartik Chokshi, AR
Revenue by :	Shri Anshu Prakash, CIT-DR Shri Purushottam Kumar, Sr.DR

सुनवाई की तारीख/Date of Hearing : 12/10/2021

घोषणा की तारीख /Date of Pronouncement : 22/10/2021

ORDER

PER AMARJIT SINGH, ACCOUNTANT MEMBER: These are cross appeals by the assessee and the Revenue against order of the Id.CIT(A)-5, Ahmedabad dated 31.5.2019. Both the appeals are disposed of by this common order.

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2. At the outset, it was brought to our notice that the Revenue has filed a letter dated 13.10.2021 wherein it has *interalia* stated that although tax effect involved in this case is Rs.NIL, i.e. below the monetary limited prescribed by the CBDT Circular No.8.8.2019, the department filed the present appeal for adjudicating the same on merit. The letter of the Department is placed on record. This being so, we proceed to dispose of appeal of the Revenue firstly on the maintainability of the appeal filed before the Tribunal in view of the above letter of the Revenue.

3. ITA No.1312/Ahd/2019 (Revenue's appeal)

4. We have gone through the ground of appeal given in form no.36 wherein under Sr.No.10 "grounds of appeal", it is mentioned that tax effect relating to each ground of appeal is "-", meaning thereby vide letter of Shri Dharshan Priyadarshi, ACIT, Cir.2(1)(1), Ahmedabad dated 13.10.2021 addressed to the Registry of the ITAT it is stated that tax effect involved in the appeal of the Revenue is NIL, but they wanted to contest the same on merit, therefore, appeal has been filed before the Tribunal. We reproduce contents of the said letter dated 13.10.2021, as under:

"No.ACIT-2(1)(1)/ABD/ITAT/Intas/12-13/2021-22

Date: 13/10/2021

To,
The Registrar,
Income-Tax Appellate Tribunal, "D" Bench,
Abhinav Arcade, Nr. Kothawala Flats,
Pritamnagar, Paldi, Ahmedabad

Sir,

Sub: Appeal filed before the Hon'ble ITAT, Ahmedabad in the case of M/s. Intas Pharmaceuticals Ltd.(erstwhile known as Intas Pharmaceuticals), PAN-AACF10241H, A.Y. 2012-13 in ITA no.1312/Ahd/2019(Department' appeal) and ITA no. 1229/Ahd/2019(Assessee's appeal).

Ref: Letter no.CIT(DR)/'D' Bench/ABD/Intas Pharm/2021-22 dtd. 12.10.2021

Kindly refer to the above.

2. In this connection, this is to state that in this case, appeal was filed before the Hon'ble ITAT against the order of the Ld.CIT(A) reducing the net profit of the Sikkim unit off appellant to 31% and consequently reducing the claims of applicant under Chapter VIA of the Act and held that diversion of expenditure by assessee firm to Intas Pharmaceuticals Ltd. is Rs. 40,49,18,184/- as against Rs. 95,08,02,542/- as held by the Assessing Officer in order u/s. 143(3) of the Act. The tax effect involved in this case is Rs. Nil. Although the tax effect involved in this case is Rs. Nil which is below the monetary limit prescribed by the CBDT vide Circular no. 17/20019 dated 08.08.2019, the department went into appeal before the Hon'ble ITAT on the merit of the case.

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3. Submitted for kind perusal.

Encl. As above.

Yours faithfully,
(Darshan Priyadarshi)
Asst. Commissioner of Income Tax,
Circle-2(1)(l), Ahmedabad”

5. Admittedly, tax effect involved in this appeal is NIL. CBDT vide Instruction dated 8.8.2019 prohibited the Revenue not to file appeal before the Tribunal where tax effect involved in the matter appeal is below Rs.50 lakhs. However, there are certain exceptions given in the Circular where the Revenue can file the appeal before the Tribunal, without considering threshold limit prescribed by the CBDT. The Id.DR has not pointed out under which circumstances, appeal of the Revenue can be adjudicated by the Tribunal in violation of the above CBDT Circular, despite knowing that tax effect involved in the appeal is NIL. Before us, the Id.DR was unable to defend contents of the letter dated 13.10.2021 for adjudicating the issue on merit. Therefore, we dismiss the appeal of the Revenue at the threshold being not maintainable due to low tax effect.

6. Now we take up assessee's cross appeal.

7. The Id.counsel for the assessee submitted that in view of non-maintainability of appeal of the Revenue due to low tax effect, and consequent dismissal thereof, he does not press the assessee's cross appeal for adjudication, and therefore, the same may be dismissed accordingly.

9. In view of the above submissions of the assessee, we dismiss the appeal of the assessee.

10. In the result, the appeal of the Revenue is dismissed due to low tax and appeal of the assessee is dismissed due to non-prosecution.

Pronounced in the Open Court on 22nd October, 2021

Sd/-
(MAHAVIR SINGH)
JUDICIAL MEMBER

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

Ahmedabad; Dated, 22/10/2021