

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD
(Through Virtual Hearing)

BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND
SRI S.S. GODARA, JUDICIAL MEMBER

	ITA No. 1044/Hyd/2018		
	A.Y. 2014-15		
Dy. Commissioner of Income Tax, Circle-1(2), Hyderabad.	Vs.	Concord Drugs Limited, Hyderabad – 500 074. PAN: AAACC 8171 D	
(Appellant)		(Respondent)	
	Assessee by	Sri P. Muralimohan Rao	
	Revenue by	Sri Y.V.S.T. Sai, CIT-DR	
	Date of hearing:	20/10/2021	
	Date of pronouncement:	29/11/2021	

ORDER

PER A. MOHAN ALANKAMONY, A.M:

This appeal is filed by the Revenue against the order of the Ld. CIT(A)-1, Hyderabad in appeal No. 0188/CIT(A)-1,Hyd/2016-17/2017-18, dated 26/02/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2014-15.

2. The Revenue has raised six grounds in its appeal, and they are extracted herein below for reference:

- “(i) *The order of the Ld. CIT(A) is erroneous on the facts as well as in law.*

- (ii) *The Ld. CIT(A) erred in setting aside the addition of Rs. 10,18,19,329/- made in respect of purchases.*
- (iii) *The Ld. CIT(A) ought not to have set aside the addition of Rs. 10,18,19,329/- in contravention of provisions of section 251(1)(a).*
- (iv) *The Ld. CIT(A) erred in deleting the disallowance of Rs. 14,28,107/- made by invoking the provisions of section 40A(3) of the IT Act.*
- (v) *The Ld. CIT(A) ought to have provided an opportunity to the Assessing Officer as required under Rule 46A of the IT Rules before admitting additional evidence in the form of bills and vouchers.*
- (vi) *The appeal craves leave to add, delete, substitute and amend any grounds of appeal at the time of hearing.”*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT(A) had remitted the issue with respect to bogus purchases back to the file of Ld. AO for verification. The Ld. AR further submitted that the Ld. CIT (A) does not have power to remit back the matter to the file of Ld. AO instead, he ought to have obtain remand report from the Ld. AO and thereafter decide the matter in accordance with law and merit. The Ld. DR could not controvert to the submission of the Ld. AR however, he vehemently argued the Ld. CIT (A) had deleted the addition made by the Ld. AO towards disallowance of cash payments U/s. 40A(3) of the Act based on fresh evidence produced before him. The Ld. DR therefore submitted that the entire matter may be remitted back to the file of the Ld. AO for de novo consideration.

4. After hearing both the parties, we find merit in the argument of the Ld. AR as well as the Ld. DR since the Ld. CIT (A) does not have the power to remand the matter to the file of Ld. AO as per section 250 of

the Act and further the Ld. CIT (A) has adjudicated the issue with respect to disallowance of expenditure on account of cash payments U/s. 40A(3) of the Act based on fresh evidence produced before him thereby depriving the Ld. AO of an opportunity to examine those evidence produced before the Ld. CIT (A). Considering these facts and circumstances of the case and the grievance of both the parties, in the interest of justice, invoking our powers under the Act, we hereby remit the entire matter back to the file of the Ld. AO for fresh consideration.

5. In the result, appeal of the Revenue is allowed for statistical purposes as indicated herein above.

Pronounced in the open Court on 29th November, 2021.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 29th November, 2021.

OKK

Copy to:-

- 1) Concord Drugs Limited, 3-11-1/1, LB Nagar, Hyderabad – 500 074.
- 2) DCIT, Circle-1(2), B-Block, 7th Floor, IT Towers, AC Guards, Masab Tank, Hyderabad.
- 3) The CIT(A)-1, Hyderabad.
- 4) The Principal Commissioner of Income Tax-1, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File