

IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

ITA No.1106/Mum/2020

(A.Y: 2008-09)

| | | |
|--|-----|---|
| M/s. FFC Aromas Pvt Ltd Plot No. A-42, Street No. 2, Marol Indl. Area (MIDC) Versus Andheri (E), Mumbai – 400 093. | Vs. | DCIT – 9(3)(1) 2 nd Floor, Aayakar Bhavan, MK Road, Mumbai – 400 020. |
| स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACF2119C | | |
| Appellant | .. | Respondent |

| | |
|-----------------|-----------------------|
| Appellant by : | None |
| Respondent by : | Smt. Usha Gaikwad, DR |

| | |
|-----------------------|------------|
| Date of Hearing | 07.09.2021 |
| Date of Pronouncement | 14.09.2021 |

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The assessee has filed the appeal against the order of the Commissioner of Income Tax (Appeals)-16, Mumbai, passed u/s 143(3)(ii) and 250 of the Income Tax Act, 1961. The assessee has raised the following grounds;

"1. The Hon'ble CIT(A) has erred in confirming the addition in respect of disallowance for excess consumption of raw material in terms of sales to the extent of Rs. 8,07,563/- made by the Ld. A.O.

2. Your appellant craves leave to add, alter, amend or

withdraw any of the grounds, if necessary.

2. The Brief facts of the case are that, the assessee company is engaged in the business of manufacturing of Aromatic Chemicals. The assessee has filed the return of income for the A.Y 2008-09 on 29.09.2008 declaring a loss of Rs.33,06,098/- and the return of income was processed u/s 143(1) of the Act. Subsequently, the case was selected for scrutiny and notice u/s 143(2) and 142(1) of the Act along with questionnaire was issued. In compliance, the ld. AR of the assessee appeared from time to time and submitted the details. On perusal of the financial statements, the A.O found that the assessee has not made disallowance u/s 14A of the Act and the A.O. has applied the Rule 8D(2) of the IT Rules and worked out disallowance of Rs.7,64,272/-. Similarly A.O made addition in respect of prior period expense of Rs. 5,700/- where the bill was issued prior to the 31.03.2007. The A.O. in respect of printing and stationary expenses found that they are not supported with proper bills and therefore made ad-hoc addition of Rs25,000/-. Similarly, the A.O made addition of miscellaneous expenditure paid in cash of Rs 5,000/-. Similarly, commission was paid to the agent and no TDS was deducted, therefore made addition of Rs1,98,559/-. In respect of professional charges paid by the assessee, no TDS was deducted and

the A.O. has disallowed the claim of Rs. 2,02,590/-. Whereas in respect of the manufacturing account the assessee to submit the item wise, quantity wise, value wise inventory and the basis of valuation with evidence. Further month wise, weight wise raw material consumed and production, electricity/labour consumed in units. The assessee has filed the submissions referred at Para 11.1 of the A.O order, but the day to day consumption /production records were not provided and the provisions of Sec. 145(3) of the Act are applicable. Therefore considering the financial statements and the percentage of cost of consumption, the A.O found that the assessee has claimed the excess consumption of raw material of Rs. 13,63,571/- and was disallowed and assessed the total income (loss) of Rs. 7,41,410/- and passed the order u/s 143(3) of the Act dated 26.11.2010.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). Whereas the CIT(A) considered the grounds of appeal, findings of the A.O and submissions of the assessee, whereas in respect of addition of excess claim of raw material of Rs. 13,60,571/-. The CIT(A) considering the nature of business and absence of proper evidence has sustained the disallowance to the extent of Rs. 8,10,337/- and also considering the mistake in calculation of sales. The CIT(A)

in other grounds of appeal has granted relief and partly allowed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Honble Tribunal.

4. At the time of hearing, none appeared on behalf of the assessee. Whereas the Ld. DR supported the order of the CIT(A).

5. We heard the Ld. DR and perused the material on record. The sole matrix of the disputed issue is with respect to disallowance of excess consumption of raw materials of Rs. 8,07,563/- sustained by the CIT(A). We on perusal of the assessment order find the A.O has made an addition of consumption of raw material to the extent of Rs. 13,63,571/-, whereas the assessee has furnished the details and explained in the letter dated 25.11.2010. Whereas the CIT(A) has sustained the addition to the extent of 8,10,337/- We on perusal of the facts find that the assessee has submitted possible information as the assessee is in the business of manufacturing and exporting of Aromatic chemicals and due to nature of business the data in relation to electricity units and labour consumed was not maintained. The assessee has filed the information to prove the method of accounting and the documentary evidence that the assessee has

maintained the proper records and following the system consistently from earlier assessment years. We are of the opinion that the revenue could not substantiate with scientific method for making the addition and also assessee should give the valid reasoning in not providing the information required as per the provisions of the Act. Accordingly, to meet the ends of justice we restrict the sustainability of addition to the extent of 25% and modify the order of the CIT(A) and partly allow the grounds of appeal.

6. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 14.09.2021.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 14.09.2021

KRK, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)

4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

(Asst. Registrar)
ITAT, Mumbai