

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD**

(through web-based video conferencing platform)

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT

ITA No. 2091/Ahd/2017

Assessment Year :2011-12

Epoch Pharmaceuticals Pvt. Ltd., C/o. P.G. Patel & Associates, 109, Mangaldeep Complex, Opp. Masonic Hall, BPC Road, Alkapuri, Vadodara-390007 PAN : AABCE 2212 J	Vs.	Income Tax Officer, Ward-1(1)(2), Vadodara
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri Samir Parikh, CA
Revenue by :		Shri V.K. Singh, Sr. DR

सुनवाई की तारीख/Date of Hearing : 05/01/2022

घोषणा की तारीख /Date of Pronouncement: 17/01/2022

आदेश/O R D E R

The assessee is in appeal before the Tribunal against the order of learned Commissioner of Income-Tax (Appeals)-1, Vadodara ["CIT(A)" in short] dated 03.07.2017 passed for Assessment Year 2011-12.

2. The grounds of appeal taken by the assessee are not in consonance with the Rule 8 of the Income-Tax (Appellate Tribunal) Rules, 1963; rather, they are descriptive and argumentative in nature.

3. In brief the grievance of the assessee is that the learned CIT(A) has erred in upholding the disallowance of Rs.17,61,217/- which was claimed by the assessee as bad debts.

4. The brief facts of the case as emerging out from the assessment order are that the assessee did not file return of income under Section 139(1) of the Income-Tax Act, 1961 ("the Act" in short). Therefore, a notice under Section 148 of the Act was issued and served upon the assessee. In response to such notice, the assessee has filed the return electronically on 15.10.2013 declaring

total income of Rs.8,22,750/-. A notice under Section 143(2) of the Act was issued and served upon the assessee. On scrutiny of the account, it revealed that the assessee has a turnover of more than Rs.4.48 crores as against the turnover of Rs.6.98 crores in the immediate preceding assessment year. The learned Assessing Officer further found that the assessee has debited a sum of Rs.24,60,792/- in the profit and loss account. According to the assessee, it could not recover the sale proceeds from the buyers of its products and therefore, he has written off these outstanding sales proceeds. The Assessing Officer has accepted the claim of the assessee to the extent of Rs.6,99,575/-, but disallowed a sum of Rs.17,61,217/-.

5. Dissatisfied with the disallowance, the assessee went in appeal before the learned CIT(A) and the learned First Appellate Authority has confirmed the disallowance by observing as under:-

"5. I have considered the facts of the case, the submission of the appellant and the AO's observations. As can be seen from the assessment order, the AO has provided sufficient opportunity of being heard to the appellant to establish with evidences its claims regarding deduction of discount charges debited to the P&L a/c. Despite this, the appellant could not file supporting evidences to show that such amounts had been considered as income during the current previous year or prior years. The AO has given his comments on the details furnished by the appellant and on the basis of that has stated that even the submissions made were full of discrepancy which were not clarified by the assessee company. Besides this, no supporting documents were filed. Hence, the disallowance made by the AO is upheld."

6. With the assistance of learned representatives, I have gone through the record carefully. It emerges out from the record that the appeal of the assessee was dismissed by the leaned CIT(A) for want of prosecution. However, on the application of the assessee, it was restored to its original number and decided on merits. After considering the whole record and hearing both the sides, I deem it appropriate to set aside the issue to the file of the Assessing Officer for

re-adjudication. Learned Assessing Officer is required to verify as to whether bad debts have actually been written off in the accounts or not. In case the outstanding dues have been written off, then the assessee is not required to prove the genuineness of non-recovery of these amounts. The law requires the debt should have been actually written off in the accounts. With the above observations, the issue is remitted back to the file of the Assessing Officer who will re-adjudicate the same in accordance with law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 17th January, 2022 at Ahmedabad.

Sd/-

(RAJPAL YADAV)
VICE PRESIDENT

Ahmedabad; Dated 17/01/2022

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

उप/सहायक पंजीकार (Dy./ Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद/ ITAT, Ahmedabad