

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No. 1963/PUN/2019

निर्धारण वर्ष / Assessment Year : 2012-13

M/s. OOD Life Living Style Private Limited, C/o. Sunil Mistry & Co., Chartered Accountants, Pokar Mansion, 3 <sup>rd</sup> Floor, N.G. Acharya Marg, Chembur (East), Mumbai – 400 071 PAN : AABCO2932P	Vs.	ITO, Ward-2(2), Nashik
Appellant		Respondent

Assessee by Shri Sunil Mistry  
Revenue by Shri M.G. Jasnani

Date of hearing 25-01-2022  
Date of pronouncement 27-01-2022

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee arises out of the order dated 01-10-2019 passed by the CIT(A)-2, Nashik in relation to the assessment year 2012-13 confirming disallowance of Sales promotion expenditure of Rs.24,81,750/-.

2. Tersely stated, the facts of the case are that the assessee furnished its return declaring total income of Rs.29,33,900/-. Despite notices, the assessee did not put in appearance before the

AO during the assessment proceedings. This led to passing of the assessment order u/s.144 of the Act, resulting into disallowance of Rs.84,76,617/- on account of Sales Promotion expenses. The assessee furnished certain details/evidence in support of the expenditure during the first appellate proceedings. The ld. CIT(A) called for the remand report from the AO. On the basis of the remand report and other relevant material, he sustained the addition at Rs.24,81,750/- towards payment made to M/s. Universal Expositions Ltd., which party had not responded to the notices issued by the AO u/s.133(6) and u/s.131 of the Act during the remand proceedings. Aggrieved by the action of the authorities below, the assessee has come up in appeal before the Tribunal.

3. We have heard the rival submissions in Virtual Court and gone through the relevant material on record. It is seen that the assessee paid Rs.24.81 lakh to M/s. Universal Expositions Ltd., towards Sales Promotion expenses through banking channel. During the remand proceedings, the AO tried to ascertain the genuineness of the transaction by issuing notices u/s.133(6) and 131 of the Act, which were not responded to by the party. The ld. AR submitted that M/s. Universal Expositions Ltd., though did

not respond at the material time, but was ready to co-operate if another opportunity is given to the assessee to substantiate genuineness of the expenditure. Considering the entirety of the facts and circumstances of the case, we are of the considered opinion that it would be in the fitness of the things if the impugned order is set-aside and the matter is restored to the file of the AO for deciding this issue afresh after affording reasonable opportunity of hearing to the assessee.

4. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the Open Court on 27<sup>th</sup> January, 2022.

Sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.S.SYAL)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 27<sup>th</sup> January, 2022  
*Satish*

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-2, Nashik
4. The Pr.CIT-3, Nashik  
विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" /
5. DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	25-01-2022	Sr.PS
2.	Draft placed before author	27-01-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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