

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" : DELHI.

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHARY, JUDICIAL MEMBER

ITA Nos.528, 529 & 530/Del./2018
Assessment Years 2013-14, 2014-15 & 2015-16

Alchemist Life Sciences Ltd., 23, Alchemist House, Nehru Place, New Delhi – 110 019. PAN AABCV3029Q	vs.,	The ACIT, Central Circle-20, ARA Centre, Jhandewalan Extn., New Delhi. PIN – 110 055.
(Applicant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri M.K. Pandey, Sr. D.R.

Date of Hearing :	12.04.2022
Date of Pronouncement :	12.04.2022

ORDER

PER R.K. PANDA, A.M.

The above 03 appeals filed by the assessee are directed against the common order dated 24.11.2017 of the Ld. CIT(A)-27, New Delhi, relating to the A.Ys. 2013-2014 to 2015-16 respectively. Since identical grounds have been taken by the assessee in all these appeals, therefore, these

appeals were heard together and are being disposed of by this common order.

2. None appeared on behalf of the assessee at the time of hearing when the name of the assessee was called. No application seeking adjournment of the appeals has been filed by the assessee. Perusal of the order sheet entries shows that the assessee was not appearing in the last so many occasions. The notice issued by the Registry through registered post was returned by the postal authorities with the remarks "refused". Therefore, we proceed to decide these appeals on the basis of material available on record and after hearing the Ld. D.R.

3. First we take-up ITA.No.528/Del./2018 as the lead case.

3.1. Facts of the case, in brief, are that the assessee company was incorporated on 10.09.2001. The original return under section 139 of the I.T. Act, 1961 was filed by the assessee on 30.09.2013, declaring loss of Rs.4,80,25,338/-. A Search and seizure operation under

section 132 of the Income Tax Act was carried out on 20.06.2014 in the M/s. Alchemist Group of cases which includes this company. In response to the notice issued under section 153A, the assessee filed return of income declaring loss at Rs.4,73,24,978/-. The A.O. completed the assessment under section 153A/143(3) on 30.12.2016 determining the total loss of the assessee at Rs.1,63,19,980/- wherein he made addition of Rs.3,10,05,000/- on account of disallowance of purchases to the tune of Rs.230.03 lakhs and disallowance of other expenses of Rs.80.02 lakhs.

3.2. In appeal, the Ld. CIT(A) dismissed the appeal filed by the assessee by observing as under :

“9. Now, I come to the additions made by AO in those years which are not completed years and assessment proceedings are open for scrutiny for regular assessments. So far as the disallowance of Rs.3,10,05,000/ in A.Y.2013-4 is concerned, the assessee failed to provide any details in respect of party-wise purchases made and quantitative details of

various items. It has also failed to explain the query of A.O. regarding applicability of provisions of section 40A(2)(a) of the Act. Rather, appellant failed to give any details in respect of purchases and other various expenses to justify its claim regarding the rates of medicines purchased or sold during the year under consideration. During the appellate proceedings also, appellant has not submitted anything on the merit of the case, rather, whole discussion has been made in respect of applicability of the decision of Kabul Chawla (Supra). Thus, in absence of any details or submissions on the part of appellant, AO was justified in holding that the appellant has claimed excessive value of purchases of medicines by reducing the profit. I, therefore, confirm the addition made by AO during A.Y. 2013-14 and dismiss the ground taken by appellant.

9.1. *Similarly, the losses of Rs.5,63,24,646/- and Rs.8,53,349/- in A.Yrs. 2014-15 and 2015-16 have been disallowed by AO as the appellant failed to give any details/ confirmations in respect of expenses*

incurred by assessee during these years. The onus was on the assessee to justify its claim of expenses incurred of losses shown during the years on account of fact that no business was carried on by it during these years, but it failed to discharge the said onus. In case of expenses or losses claimed, it is primarily the duty of the assessee to prove that the said expenses are genuine and incurred for the business purposes. In absence of any such details or justifications, AO was justified in holding that the expenses claimed by appellant are not genuine or allowable as provisions of the Act. I, therefore, confirm the additions made by AO and dismiss the grounds taken by appellant in this regard.

9.2. *In the result, the appeals are allowed for A.Y. 2009-10 to 2012-13 and dismissed for A.Y. 2013-14 to 2015-16.”*

4. Aggrieved with such order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds :

1. *“The order of the Ld. Commissioner of Income Tax (Appeals) -XXVII, New Delhi is bad in law, wrong on the facts and against the principles of natural justice.*
2. *That on the facts and in the circumstances of the case, the Ld. Assessing Officer has erroneously made additions/disallowances in the impugned assessment order framed u/s 153A of the act on the issues which has no nexus with the material unearthed during the course of search operations and thereby making a de-novo assessment, which needs to be deleted.*
3. *The Ld. CIT(A) has erred in confirming arbitrary addition/disallowance which needs to be deleted.”*

4.1. We have heard the Ld. D.R. and perused the record. We find the A.O. in the instant case has completed the assessment under section 153A/143(3) on 30.12.2016 determining the total loss of Rs.1,63,19,980/- as against the returned loss of Rs.4,73,24,978/- wherein he made addition of Rs.2,30,03,000/- on account of disallowance of purchases and Rs.80.02 lakhs on account of disallowance of

various expenses. We find before the Ld. CIT(A) the assessee apart from challenging the addition on merit, challenged the validity of the assessment under section 153A. We find the Ld. CIT(A) in a detailed and exhaustive order has decided the issue which has already been reproduced in the preceding paragraph. We do not find any infirmity in the order of the Ld. CIT(A). We, therefore, uphold the order of the Ld. CIT(A) on this issue in absence of any material before us to take a contrary view than the view taken by the Ld. CIT(A) on this issue. Accordingly, the order of the Ld. CIT(A) is upheld and the grounds raised by the assessee are dismissed.

5. In the result, ITA.No.528/Del./2018 of the assessee is dismissed.

6. In ITA.Nos.529 & 530/Del./2018 for the A.Ys. 2014-15 & 2015-16 identical grounds have been taken by the assessee. Respectfully following our reasoning given in ITA.No.528/Del./2018, we uphold the order of the Ld. CIT(A) for these years also and dismiss the grounds raised by the assessee in both these appeals.

7. In the result, ITA.Nos.529 & 530/Del./2018 of the assessee are dismissed.

8. To sum-up, all the appeals of the Assessee are dismissed.

Order pronounced in the open court at the time of hearing i.e., on 12.04.2022.

Sd/-
 [N.K. CHOUDHARY]
 JUDICIAL MEMBER

Sd/-
 [R.K.PANDA]
 ACCOUNTANT MEMBER

Delhi; Dated 18th April, 2022.

VBP/-
 Copy to

1.	The assessee
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT, Delhi Bench-A, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
 Delhi.