

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' A ' Bench, Hyderabad**

**Before Shri Laliet Kumar, Judicial Member  
AND  
Shri Laxmi Prasad Sahu, Accountant Member**

<b>ITA No.45/Hyd/2020</b>		
<b>Assessment Year: 2012-13</b>		
Ritemed Pharma Retail Private Limited, Rep. by Optival Health Solutions Private Limited, Hyderabad. PAN : AAECR4040G	Vs.	The Asst. Commissioner of Income Tax, Circle 16(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Ms. Chandini Shah, CA and Shri Vineet Malpani, CA.
Revenue by:		Shri T. Sunil Goutam.
Date of hearing:		26.04.2022
Date of pronouncement:		27.04.2022

**ORDER**

**Per Laliet Kumar, J.M.**

This appeal is filed by the assessee feeling aggrieved by the order of Commissioner of Income Tax (Appeals) – 3, Hyderabad dt.01.11.2019 for the assessment year 2012-13 on the following grounds :

“ 1. Ground NO.1

*The orders of the lower authorities suffer from legal defects of violating the principles of equity and natural justice and the provisions of the Act, and are devoid of merits, are contrary to facts on record and applicable law, and the proceedings were completed without adequate inquiries and as such the orders are liable to be quashed.*

2. Ground NO.2

*On the facts and in the circumstances of the case and in law, the Learned Commissioner of Income-tax (Appeals) - 3 ('Learned CIT (A)') confirming the disallowance of loan processing charges of Rs. 5,29,000 without appreciating the fact that the processing fee is paid for availing the cash credit facility.*

3. Ground NO.3

*On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in confirming the disallowance of expenditure towards manpower services of Rs. 62,80,272 without appreciating the fact that the said expense is wholly incurred for the purpose of business of the appellant*

4. Ground No. 4

*On the facts and in the circumstances of the case and in law, the Learned CIT(A) erred in confirming the disallowance of write-off of service tax input credit on manpower services of Rs. 13,89,811 without appreciating the fact that the said write-off is an allowable business expenditure.”*

2. At the outset, ld.AR had drawn our attention to Para VIII at Page 11 of the order of ld.CIT(A), wherein it was mentioned as under :

*“VIII Ground No. 3 relates to disallowance of loan processing charges of Rs.5,29,000/-. Facts, issues and circumstances of the instant case were seen. In the written submissions, the AR of the appellant submitted the copies of the sanction of credit facilities, commercial advance, issued by the SEI, Chirag Ali Lane Branch, Hyderabad and CC payment vouchers. On perusal of the copy of the sanction of credit facility, the Bank sanctioned Cash Credit of Rs.12.60 Crores and Term Loan of Rs.6.93 Crores to the appellant but not renewal of collateral security. From the facts, circumstances and submissions made by the appellant, the addition made of Rs.5,29,000/- on this count does not merit intervention. Hence, Ground No.3 in the appeal is dismissed.”*

3. Ld.AR further drawn our attention to Para XIV at Pages 12 and 13 of the order of ld.CIT(A), wherein it was mentioned as under :

*“XIV) Ground No. 10 relates to disallowance of manpower services of Rs.62,80,272/- being loss incurred in rendering the manpower services. From the submissions made by the appellant it is seen that the appellant entered service agreement with M/s. Optival Health Solutions Pvt. Ltd for the manpower services from time to time. During the year, the appellant rendered manpower services to its group company viz., M/s. Optival Health Solutions Pvt. Ltd amounting to Rs.1,71,19,439/- and also rendered manpower services to M/s. Venkata Krishna Enterprises Pvt. Ltd of Rs.1,25,650/-. The appellant received manpower services from M/s. Optival Health Solutions Pvt. Ltd amounting to Rs.2,35,25,361/-. Considering the facts, issues and circumstances, it is not clear whether the expenses were wholly in connection with the business activities of the appellant. In appeal too, the appellant could not establish that the sum was wholly and exclusively for the purpose of business only. Hence, Ground No.10 in appeal is dismissed.*

*XIV) Ground No. 11 relates to disallowance of reversal of service tax input on salaries amounting to Rs.1,89,811/-. Facts, issues and circumstances of the instant case were seen. The AR of the appellant, in the written submissions stated that the appellant company availed manpower services from its group entities viz. M/s. Optival Health Solutions Pvt. Ltd and M/s. Venkata Krishna Enterprises Pvt. Ltd and reversed the service tax input and in support of its claim, submitted the month wise service tax details and copies of challans for the service tax payment. However, considering that the appellant could not establish whether manpower services were exclusively for business purposes only, a disallowance was made and the same was upheld in Ground No.10 above. Similarly, as can be seen from para 10 on page 4 of the assessment order, it is not clear as to what exactly the services were rendered for etc. Hence Ground No.11 in appeal is dismissed.*

4. It was submitted by the ld.AR that the learned lower authorities have decided the issue without discussing or deliberating the factual matrix of the case. It was submitted that no reasoning was given while deciding the issue and the order passed by the ld.CIT(A) was cryptic, mechanical and non-speaking order and it was submitted that the matter may kindly be remitted back to the authorities below for afresh adjudication.

5. Per contra, the ld.DR has not raised any objection for remanding the matter back to the file of lower authorities.

6. We have heard the rival contentions of both the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), we found that the reasoning given by the ld.CIT(A) was cryptic and mechanical. It is well known that a judicial order necessarily has to be a reasoned one, where the mind of the learned Court needs to be revealed, and cogent and convincing reasons need to be stated while arriving to the decision. In view of the above reasons, in our view, the ends of justice will be met if the matter may be sent back to the file of ld.CIT(A) with a direction to decide the issue after considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with the law.

7. The assessee shall be at liberty to file documents, if any, as required for proving its case and the ld.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say, that the ld.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the documents filed by the assessee and the submissions made by the assessee, the ld.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. We have not adjudicated the other grounds on merits as we are setting aside the orders passed by the lower authorities to the file of ld.CIT(A) for fresh adjudication. Needless to say, we have not adjudicated any other ground, all the grounds are required to be adjudicated by the ld.CIT(A) in the remand proceedings.

8. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

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

Sd/- <b>(LAXMI PRASAD SAHU)</b> <b>ACCOUNTANT MEMBER</b>	Sd/- <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>
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Hyderabad, dated 27<sup>th</sup> April, 2022.

**TYNM/sps**

Copy to:

S.No	Addresses
1	Ritemed Pharma Retail Private Limited, Rep. by Optival Health Solutions Private Limited, Hyderabad. C/o. GSR Estates, 3 <sup>rd</sup> Floor, Survey No.257 & 258/1, Opp. IDL Railway Siding Road, Balangar, Hyderabad – 500 042.
2	ACIT, Circle 16(2), Hyderabad.
3	CIT(A)-3, Hyderabad.
4	PCIT-3, Hyderabad.
5	DR, ITAT Hyderabad Benches
6	Guard File

*By Order*