

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH, 'A' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.367 & 368/PUN/2019  
निर्धारण वर्ष / Assessment Years : 2014-15 & 2015-16

DCIT, Central Circle-2(1), Pune	Vs.	M/s. Emcure Pharmaceuticals Ltd., T-184, Emcure House, MIDC, Bhosari, Pune 411 026 Maharashtra PAN : AAACE4574C
Appellant		Respondent

Assessee by Shri Nikhil S. Pathak  
Revenue by Shri S.P. Walimbe

Date of hearing 06-07-2022  
Date of pronouncement 06-07-2022

आदेश / ORDER

PER R.S. SYAL, VP :

These two appeals by the Revenue relating to assessment years 2014-15 and 2015-16 arise out of a common order passed by the CIT(A)-12, Pune on 31-12-2018.

2. The only issue raised in these appeals is against the deletion of addition of Rs.2,97,38,239/- and Rs.2,21,74,806/- respectively on account of freebies provided by the assessee company to medical practitioners.

3. Briefly stated, the facts of the case are that the assessee is engaged in the business of manufacturing and sale of pharmaceutical products. It debited the above mentioned amounts as Advertisement and Promotion expenses incurred on gifts and freebies given to Medical practitioners. The Assessing Officer (AO) treated the said amounts as not allowable in terms of section 37(1) of the Act. The Id. CIT(A) accepted the assessee's claim and deleted the above additions. Aggrieved thereby, the Revenue has come up in appeal before the Tribunal.

4. Having heard both the sides and gone through the relevant material on record, it is seen that the issue raised in these appeals is no more *res integra* in view of the judgment of the Hon'ble Supreme Court in *Apex Laboratories Pvt. Ltd. Vs. DCIT (2022) 442 ITR 1 (SC)* denying the benefit of deduction in the hands of pharmaceutical companies towards freebies provided to the Medical Practitioners. The Id. AR candidly accepted this legal proposition. In view of the above binding precedent, we overturn the impugned order and restore the above additions made by the AO.

5. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 06<sup>th</sup> July, 2022.

Sd/-  
**(S.S. VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

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

पुणे Pune; दिनांक Dated : 06<sup>th</sup> July, 2022  
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The CIT(A)-13, Pune
4. The Pr.CIT-2, Pune
5. DR, ITAT, 'A' Bench, 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	06-07-2022	Sr.PS
2.	Draft placed before author	06-07-2022	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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