

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

Sr. No	Appeal Numbers	Assessment Years	Appellant	Respondent
1	ITA No.607/Chny/2018	2007-08	M/s. Mohan Breweries & Distilleries Ltd., Phase-I, Third Floor, 605 & 606 T.R. Sundaram Avenue, Chennai – 600 006. [PAN: AAACM 2415L]	ACIT Central Circle-2(1), Chennai.
2	ITA No.608/Chny/2018	2008-09		
3	ITA No.609/Chny/2018	2009-10		
4.	ITA No.610/Chny/2018	2010-11		
5.	ITA No.1259/Chny/2018	2011-12		
6.	ITA No.611/Chny/2018	2012-13		
7.	ITA No.612/Chny/2018	2013-14		
			ACIT Central Circle-2(1), Chennai.	M/s. Mohan Breweries & Distilleries Ltd., Phase-I, Third Floor, 605 & 606 T.R. Sundaram Avenue, Chennai – 600 006. [PAN: AAACM 2415L]
8.	ITA No.584/Chny/2018	2007-08		
9.	ITA No.585/Chny/2018	2008-09		
10	ITANo.586/Chny/2018	2009-10		

अपीलार्थी की ओरसे/ Assessee by	:	Shri R. Vijayaraghavan (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Revenue by	:	Shri Abani Kanta Nayak (CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	30 & 31-05-2022
घोषणा की तारीख / Date of Pronouncement	:	12-08-2022

आदेश / ORDER

Per Bench:

1. Aforesaid appeals by assessee for Assessment Years (AY) 2007-08 to 2013-14 having common issues arises out of separate orders of learned first appellate authority. The revenue is also in further appeal for

AYs 2007-08 to 2009-10. For the purpose of adjudication, facts from AY 2007-08 have been culled out in this order.

2. The Ld. AR placed on record issue-wise chart and advanced arguments. The Ld. CIT-DR also advanced arguments and supported the assessment framed by Ld. AO. Having heard rival submissions and after going through relevant material on record including judicial pronouncements as cited during the course of hearing, our adjudication would be as under.

Assessment Year 2007-08

3. The cross-appeals for AY 2007-08 arise out of the order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 30.11.2017 in the matter of assessment framed by Ld. Assessing Officer u/s 153A r.w.s. 143(3) on 31.03.2015.

The grounds raised by the assessee read as under: -

1. The Order of the Commissioner of Income Tax (Appeals) is contrary to law, facts and circumstances of the case.

2. The Commissioner of Income Tax (Appeals) erred in confirming the disallowance of Sales Promotion expenditure.

2.1 The Appellant submits that it has incurred an amount of Rs.1,79,66,375/- towards Sales Promotion expenditure in the ordinary course of business, hence, disallowance of the same is uncalled for.

2.2 The Commissioner of Income Tax (Appeals) ought to have appreciated that the performance of the appellant company has increased comparatively from the earlier years which is mainly attributable to the Sales Promotions carried out by the appellant, hence, denial of the claim of expenditure incurred towards sales promotion is against the law and uncalled for.

2.3 The Commissioner of Income Tax (Appeals) erred in ignoring the fact that incurring of Sales Promotion expenditure is essential and unavoidable, In order to compete with the competitors in the Trade, hence, incurring of the said expenditure is in the normal course of business and disallowance of the same is not warranted

2.4 The appellant submits that the Sales Promotion expenditure was incurred to incentivise the sales personnel and employees at various levels viz. Depot, Beer Scheme Shops and IMFL Scheme Shops of the appellant company who are instrumental for increase in the sales by paving for product penetration in the market

3. Appellant craves leave to adduce additional evidence at the time of hearing.

The grounds raised by the revenue read as under: -

1. The Order of the learned Commissioner of Income Tax (Appeals) is erroneous on facts and circumstances of the case and in law.
2. The Id. CIT(A) erred in directing the Assessing Officer (AO) to allow the deduction u/s.80IA of the IT Act, 1961 amounting to Rs.8,65,16,360/- disallowed by the AO in the order u/s.. 153A r. w. sec. 143(3) of the IT Act, 1961 for the AY 2007-08.
 - 2.1. The Id. CIT(A) ought to have considered the fact that the Finance (No. 2) Act 1998 has amended Section 80IA to allow tax holiday in respect of undertaking engaged in power section with simultaneous amendment to give separate schedule of rates of depreciation in respect of the assets used in the power generating units.
 - 2.2. The Id CIT(A) failed to note that the above amendments were brought to allow tax holiday to an undertaking engaged in the business of generation or generation and distribution of power. The above deduction is allowed for 10 years out of the 15 years and not from the first year of generation of power by removing the uncertainty from the minds of potential investors.
 - 2.3. The Id. CIT(A) erred in not considering the fact that, in respect of windmills, electricity is generated immediately on installation and there is no gestation period. Further, windmills come under the classification of 'non-conventional energy sources' for which no huge/mega/major investments are required, as compared to traditional power sector like hydro-electric/thermal electric/steam electric., etc.
 - 2.4. The Id. CIT(A) ought to have noted that Windmills cannot be equated with the conventional power generating units, as the deduction u/s.80IA is intended to be allowable only for such power generating units.
 - 2.5. The Id CIT(A) ought to have considered the fact that the decision of the Hon'ble High Court of Madras in the assessee's case for the AY 2005-06 on similar issue has not reached finality, since SLP filed by the revenue u/s. 261 of the IT Act, 1961 against the same is pending before the Hon'ble Supreme Court of India.
3. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of learned CIT(Appeals) may be set aside and that of the Assessing Officer be restored.

RELIEF CLAIMED IN APPEAL

The order of the learned CIT (Appeals) may be set aside and that of the Assessing Officer be restored.

4. The assessment was so framed since the assessee was subjected to search action u/s 132 on 11.05.2012 wherein certain incriminating documents were found and seized. The assessee is stated to be engaged in manufacturing of Beer, IMFL, Spirit, Malt, Glass Bottles, Bio-compost, wind / biomass energy & agricultural activities and trading.

Assessment Proceedings

- 5.1 The assessee claimed deduction u/s 80-IA for Rs.865.16 Lacs in respect of income earned through generation of power by windmill. Relying upon assessment orders for AYs 2005-06, 2006-07 & 2008-09,

the same was denied to the assessee. In the earlier orders, the deduction was denied on the premise that deduction is available only for power generating units having long gestation period.

Disallowance of Sales Promotion Expenses

5.2 During search operations, statement of Shri Krishnamurthy, the then Chief Financial Officer (CFO) was recorded to explain the difference in cash balance found and cash balance as per books of accounts. The cash balance as per Books was Rs.76.55 Lacs whereas actual cash balance available was only Rs.0.12 Lacs. In the statement u/s 132(4), it was submitted that cash was given to sales force for distribution in market on secondary sales (Tasmac Depot & Tasmac Retail outlet). The payments were stated to be paid on monthly basis. Such cash payments were stated to be made under the authorization of Managing Director to depot managers and retail outlet employees of Tasmac. The dispatch from factory to depot was termed as primary sales. The dispatch from Tasmac depot to Tasmac retail outlet was termed as secondary sales. The incentive was paid on secondary sales on monthly basis to depot managers / retail outlet employees of Tasmac on the basis of category of brand. The scheme would cover all the 42 depots throughout Tamil Nadu.

5.3 It was also admitted that the cash was handed over to head of marketing department who, in turn, would hand over the cash to Area Sales Officers which is thereafter paid to depots managers based on targets fixed. The monthly expenditure was stated to be in the range of Rs.20 Lacs to Rs.25 Lacs. Apart from this, the assessee paid commission to own sales representatives also for achieving the targets. This expenditure was stated to be in the range of Rs.1 Lac per month.

5.4 On the basis of the same, a question was put as to why this expenditure was not to be disallowed in view of Explanation to Sec.37 (1). In response, it was stated that these payments were paid as per the trade practices. To achieve secondary sales, it becomes necessary to pay marketing incentives.

5.5 In the above background, notice u/s 142(1) was issued and various details were called for by Ld. AO during the course of assessment proceedings. The assessee submitted that the expenditure was made in order to promote sales. As a result of this expenditure, there was increase in turnover and therefore, the expenditure was incurred exclusively and wholly for business purpose. Similar expenditure was incurred in the state of Andhra Pradesh and Kerala which was paid through a private marketing agency appointed by the assessee.

5.6 Not satisfied with the reply, Shri T. Krishnamurthy was summoned and another statement was recorded from him u/s 131 on 26.02.2015. It transpired that there was two type of expenditure-one which was paid to own sales representative on achieving the fixed targets. These sales representatives are on pay roll of the assessee. The second incentive was paid by sales representative to Tasmac Depot Managers & retail employees in cash with the approval of the assessee. However, the payees could not be identified and it was submitted that these were mere reimbursements which would not warrant Tax Deduction at Source (TDS). However, it transpired that these payments were evidenced merely by self-made vouchers without their being any supporting third party vouchers.

5.7 On the basis of these facts, Ld. AO held that the identity of payees was not revealed and the expenditure could not be treated as laid out

exclusively and wholly for the purpose of business. To further strengthen the opinion, one of the Area Sales Manager Shri R. Bhoopathy, was also examined on oath on 06.03.2015 wherein it transpired that the salesman visit Tasmac Shops and upon achieving targets by bar, the bar sales man are given incentive. The details of incentive so paid by him could not be produced. No proof of such payment could be adduced. So far as the payment at depot level were concerned, the expenditure was stated to be incurred on refreshments, replacement of damaged carton boxes and purchase of adhesive tapes and replacement of damaged bottles by purchasing it from nearby Tasmac shops. The expenditure would be written on a piece of paper and given to the driver of the lorry. The driver would submit the same to transporter who would be reimbursed by the assessee. However, no supporting documents were filed.

5.8 The assessee was requested to produce the brand wise sales figures of each and every bar and the purchase receipts given to the assessee. However, no such details could be provided.

5.9 Finally, it was concluded by Ld. AO that the assessee could not produce any evidence in support of the claim. The claim was not supported by any documents. Therefore, the expenditure of Rs.179.66 Lacs as claimed by the assessee was disallowed. It was also held that the payments made to Tasmac employees would not be allowable since it is a Public Sector Undertaking of State of Tamil Nadu. The payment so made would not be allowed in terms of explanation to Sec. 37(1). The code of conduct of Tasmac clearly prohibits this kind of payment. This binds both streams i.e., persons on the pay roll of assessee as well as Tasmac and private parties including Tasmac bars, suppliers and contractors etc.

Appellate Proceedings

6.1 The assessee assailed the assessment on legal grounds by submitting that in the absence of any incriminating material as found during the course of search, no such addition could be made. The assessee also assailed the quantum additions on merits.

6.2 The Ld. CIT(A) allowed the claim of the assessee u/s 80-IA on the ground that gestation period was not a precondition. The intent of legislatures was to encourage enterprises in the power sector to overcome the dearth of power and therefore, since the assessee fulfilled such conditions, the disallowance could not be sustained. Aggrieved, the revenue is in further appeal before us.

6.3 The disallowance of Sales Promotion expenses was confirmed with the following observations: -

As can be seen from the replies to the sworn statement these payments even though their nomenclature has been mentioned as such, are not an allowable expenditure u/s. 37 as they are prohibitive. The A.O also correctly disallowed the said expenditure by referring to Explanation 1 to Sub-section 1 of Section 37 of the Act which reads as under:

....." it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure"

This inference is further strengthened by the fact that there are no vouchers, produced either before the AO during assessment proceedings or before the undersigned during the appellate proceedings evidencing such payments duly signed by the recipients.

6.4 The legal grounds were dismissed as under: -

The appellant objects to the addition relying on the decision of the Hon'ble ITAT Mumbai in the case of ***ALL cargo Global Logistics v DCIT 137 ITD 287 (Mum)***. **On the other hand, during search sworn statement recorded from the** Chief Financial Officer, Shri T. Krishnamurthy indicates that payments were made to various TASMAC officials which have been claimed in the guise of sales promotion expenses. Thus, it can be concluded that the AO had not made the additions without

any basis and here the incriminating document is in the form of sworn statement of the above official.

In such circumstances, I am of the considered view that the action of the AO is legally tenable and no interference is called for. Hence, this ground of appeal is **dismissed**.

Aggrieved by dismissal of these grounds, the assessee is in further appeal before us.

Our findings and Adjudication

7. From the facts, it emerges that the assessee was subjected to search action u/s 132 11.05.2012 wherein certain incriminating documents were found and seized. Apart from this, a huge difference in cash was found. Accordingly, the responsible representative of the assessee-company Shri T. Krishnamurthy (CFO) was required to explain the same and his statement was recorded on oath u/s 132(4). The facts as emerging out of this statement have been elaborated in preceding paras-5.2 to 5.4. It was admitted that cash was given to sales force for distribution in market on secondary sales carried out at Tasmac Depot & Tasmac Retail outlets. The payments were made with the knowledge of the assessee on monthly basis. Besides this, the assessee has paid incentive to its own sales force also. The incentive was paid on secondary sales on monthly basis to depot managers / retail outlet employees of Tasmac on the basis of category of brand. The scheme is stated to have covered all the 42 depots throughout Tamil Nadu. It also emerges that all such payments are made in cash since the cash was handed over to head of marketing department who, in turn, would hand over the cash to Area sales officers which is thereafter paid to depots managers / retail employees based on targets fixed by the assessee. The monthly expenditure was stated to be in the range of Rs.20 Lacs to

Rs.25 Lacs. The incentive paid to own sales force was stated to be in the range of Rs.1 Lac per month. The only explanation adduced was that these payments were made as per trade practices notwithstanding the facts that the same were paid in gross violation of provisions of Sec.40A(3) and also in violation of TDS provisions which mandate tax deduction at source on such payment. The argument that these were mere reimbursements could not be accepted in the light of the fact that such payments constitute expenditure for the assessee and has been debited in the Profit & Loss Account. Another argument that there was increase in turnover would also not be relevant, in this regard. In another statement recorded during the course of assessment proceedings, the position as aforesaid was maintained. The statement of Area Sales Manager further confirmed the modus operandi of such payments.

8. Proceeding further, it could also be noted that the assessee is not able to identify the payees of such payments. No details of payees could be submitted and the quantification of the expenditure remained elusive. Nothing was shown that the payments so made were offered to tax by the payees thereof. The only supporting document given by the assessee was self-made vouchers without their being any supporting third-party vouchers.

9. Therefore, on the facts and circumstances of the case, the assessment order framed by Ld. AO, on this issue and as confirmed by Ld. CIT(A) could not be faulted with. It could be well said that the expenditure was not laid out exclusively and wholly for the purpose of business. The explanation to Sec.37(1) was certainly applicable to the case of the assessee since the payments made to Tasmac employees would not be allowable since it is a Public Sector Undertaking of State of

Tamil Nadu. The payment so made would not be allowed in terms of explanation to Sec. 37(1). The code of conduct of Tasmac clearly prohibits this kind of payment. This binds both the streams i.e. i.e., persons on the pay roll of assessee as well as Tasmac and private parties including Tasmac bars, suppliers and contractors etc. We concur with the observations made by Ld. AO as well as Ld. CIT(A) in their respective orders.

10. The Hon'ble Supreme Court in its recent decision titled as **Apex Laboratories Pvt. Ltd. V/s CIT (135 Taxmann.com 286; 22.02.2022)**, in the context of freebies / gifts to medical practitioner, held as under: -

Analysis and Conclusions

17. An examination of the relevant provisions is first necessary. section 37 of the IT Act states as follows:

"Section 37. General. — (1) Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

[Explanation 1]. —For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.] (emphasis supplied) Section 37 is a residuary provision. Any business or professional expenditure which does not ordinarily fall under sections 30-36, and which are not in the nature of capital expenditure or personal expenses, can claim the benefit of this exemption. But the same is not absolute. Explanation 1, which was inserted in 1998 with retrospective effect from 1-4-1962, restricts the application of such exemption for "any purpose which is an offence or which is prohibited by law". The IT Act does not provide a definition for these terms. Section 2(38) of the General Clauses Act, 1897 defines 'offence' as "any act or omission made punishable by any law for the time being in force". Under the IPC, section 40 defines it as "a thing punishable by this Code", read with section 43 which defines 'illegal' as being applicable to "everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action". It is therefore clear that Explanation 1 contains within its ambit all such activities which are illegal/prohibited by law and/or punishable.

This was further held that a narrow interpretation of Explanation 1 to section 37(1) defeats the purpose for which it was inserted, i.e., to

disallow an assessee from claiming a tax benefit for its participation in an illegal activity. It is also held that a settled principle of law is that no court will lend its aid to a party that roots its cause of action in an immoral or illegal act (*ex dolo malo non oritur action*) meaning that none should be allowed to profit from any wrongdoing coupled with the fact that statutory regimes should be coherent and not self-defeating. Therefore, denial of the tax benefit cannot be construed as penalizing the assessee pharmaceutical company. Only its participation in what is plainly an action prohibited by law, precludes the assessee from claiming it as a deductible expenditure. Further, one arm of the law cannot be utilized to defeat the other arm of law - doing so would be opposed to public policy and bring the law into ridicule. It will be against public policy to allow the benefit of deduction under one statute of any expenditure incurred in violation of the provisions of another statute or any penalty imposed under another statute. Finally, the expenditure as claimed by the assessee was held to be not deductible. We are of the considered opinion that the ratio of this decision squarely applies to the facts of present case before us.

11. So far as the legality of quantum additions is concerned, we find that incriminating material was found during the course of search operations. A huge difference in cash as per books and physical cash was noted and the statement of a responsible representative was recorded which has been maintained all along. Therefore, it could not be said that the additions were not based on incriminating material found during the course of search. In fact, this is the primary issue arising out of search operations. The decision of Hon'ble Kerala High Court in the case of **E.N. Gopakumar V/s CIT (75 Taxmann.com 215; 03.10.2016)**

as well as in **CIT V/s St. Francis Clay Décor Tiles (70 Taxmann.com 234; 22.03.2016)** supports this view. Therefore, the adjudication of Ld. CIT(A) could not be faulted with, on this score also.

12. In the result, the appeal of the assessee is dismissed. As per issue-wise chart placed before us, this issue arises in AYs 2008-09 to 2013-14 also. Facts being pari-materia the same, taking the same view, we dismiss the corresponding grounds raised by the assessee in those years.

13. The revenue has assailed the grant of deduction u/s 80-IA by Ld. CIT(A). We find that this issue stand covered in assessee's favor by the decision of this Tribunal for AYs 2005-06 & 2006-07 vide ITA Nos.598 & 599/Chny/2018 wherein revenue's appeal was dismissed in terms of decision of Hon'ble High Court of Madras in assessee's own case. The Ld. AR also brought to the notice that the Special Leave Petition filed by the assessee has also been dismissed by Hon'ble Apex Court. This being the case, impugned order does not require any interference on our part. The revenue's appeal stands dismissed.

Assessment Year 2008-09

14. The only issue in assessee's appeal is disallowance of Sales Promotion expenses which has already been held against the assessee. Accordingly, the assessee's appeal stands dismissed.

15. The first issue in revenue's appeal is grant of deduction u/s 80-IA by Ld. CIT(A). The Ld. CIT(A) has deleted the disallowance on the ground that this addition was not based on any incriminating material found during the course of search action. This issue, on merits, is allowed by us in para-13 considering the earlier favorable decision of the

Tribunal coupled with the decision of Hon'ble Madras High Court in assessee's own case. Accordingly, this ground stand dismissed.

16. The other grounds raised by the revenue are with respect to computation of Short-Term Capital Gains and penal interest for belated tax payments. The Ld. CIT(A) has deleted the disallowance on the ground that this addition was not based on any incriminating material found during the course of search action. We find that the assessee was searched on 11.05.2012. The return of income filed by the assessee on 13.10.2008 was already scrutinized u/s 143(3) on 31.12.2010. Evidently, no proceedings were pending against the assessee and this year was not abated assessment year. It is also a fact that both these additions are not based on any incriminating material found during the search operations. Therefore, no infirmity could be found in the impugned order considering the ratio of decision of Hon'ble Bombay High Court in **CIT V/s Continental Warehousing Corporation [2015; 374 ITR 645]** wherein it was held that unless any incriminating material was unearthed, no additions could be sustained in the hands of the assessee. The other case laws as enumerated in the impugned order also support this proposition. Therefore, the corresponding grounds raised by the revenue stand dismissed. The revenue's appeal stands dismissed.

Assessment Year 2009-10

17. The only issue in assessee's appeal is disallowance of Sales Promotion expenses which has already been held against the assessee. Accordingly, the assessee's appeal stands dismissed.

18. The only issue in revenue's appeal is deletion of sales tax penalty. The Ld. CIT(A) has deleted the disallowance on the ground that this

addition was not based on any incriminating material found during the course of search action. Concurring with the same and in view of our adjudication in para-16 for AY 2008-09, we confirm the stand of Ld. CIT(A) and dismiss the appeal of the revenue.

Assessee's Appeal: Assessment Year 2010-11

19. The first issue in assessee's appeal is disallowance of Sales Promotion expenses which has already been held against the assessee. Accordingly, the corresponding grounds raised in the appeal stand dismissed,

20. The second ground is disallowance of advances written-off. The Ld. AO disallowed on the ground that the assessee was not in the business of money lending. No explanation was furnished whether the expenditure was capital or revenue in nature. The Ld. CIT(A) confirmed the stand of Ld. AO for want of documentary evidence. Considering these facts, we deem it fit to grant another opportunity to the assessee to substantiate its case before Ld. AO. Therefore, this issue stand restored back to the file of Ld. AO for denovo adjudication. The ground stand allowed for statistical purposes. The appeal stands partly allowed for statistical purposes.

Assessee's Appeal: Assessment Year 2011-12

21. Ground No.3 and its sub-grounds are related with disallowance of Sales Promotion expenses which has already been held against the assessee. Accordingly, the corresponding grounds raised in the appeal stand dismissed,

22. The other ground is related with income arising out of slump sale. The assessee reflected loss of Rs.76.40 Crores on sale of Bio-Mass division. However, the gain arising on the same for Rs.28.28 Crores was

not considered in the computation. The division was sold to M/s Nanda Energy Ltd. (NEL) at Rs.65 Crores on slump sale basis vide agreement dated 24.05.2010 out of which Rs.12.61 crores was earmarked to discharge the terms lenders of bio-mass division and the balance Rs.52.39 Crores was payable to the assessee. However, in the books of NEL, the addition to fixed asset was shown as Rs.77.80 Crores. As against the same, the assessee computed capital gains considering sale consideration as Rs.68.28 Crores only. In the above facts, Ld. AO added the difference of Rs.9.52 Crores to the income of the assessee. The stand of Ld. AO, upon confirmation by Ld. CIT(A), is in further appeal before us.

23. It is the submission of Ld. AR that the consideration arising out of slump sale is duly evidenced by the agreement which is placed on record. The Ld. AR submitted that no further consideration accrued to the assessee and therefore, the addition was without any basis. The Ld. AR also submitted that the addition was made on bare examination of financial statements of NEL and the same was not confronted to the assessee.

24. Considering the submissions made before us, we remit this matter back to the file of Ld. AO for denovo adjudication. The Ld. AO is directed to go through the slump sale agreement and confront the material used against the assessee to make this addition. This ground stand allowed for statistical purposes. The appeal stands partly allowed for statistical purposes.

Assessee's Appeal: Assessment Year 2012-13

25. Ground Nos. 1 to 2.4 are related with disallowance of Sales Promotion expenses which has already been held against the assessee.

Accordingly, the corresponding grounds raised in the appeal stand dismissed.

26. Ground No.3 is with respect to investments forfeited for Rs.12.51 Lacs. Ground No.4 is related with disallowance of expenses for Rs.116.29 Lacs being material written-off. The Ld. AO held the same to be capital expenditure and disallowed the same. The Ld. CIT(A) confirmed the same since the assessee did not file the relevant details during assessment proceedings as well as during appellate proceedings. Aggrieved, the assessee is in further appeal before us. Considering our adjudication of same issue in AY 2010-11 (para-20), both the issues stand remitted back to Ld. AO for denovo adjudication. Both these grounds stand allowed for statistical purposes. The appeal stands partly allowed for statistical purposes.

Assessee's Appeal: Assessment Year 2013-14

27. Ground Nos. 1 to 2.4 are related with disallowance of Sales Promotion expenses which has already been held against the assessee. Accordingly, the corresponding grounds raised in the appeal stand dismissed.

28. Ground No.3 is related with advances written-off which stand restored back to the file of Ld. AO for denovo adjudication on similar lines. The appeal stands partly allowed for statistical purposes.

Conclusion

29. The assessee's appeals for AYs 2010-11 to 2013-14 stands partly allowed for statistical purposes whereas all the other appeals stand dismissed.

Order pronounced on 12th August, 2022.

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 12-08-2022
EDN/-

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF