

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE**

**BEFORE SHRI S.S.GODARA, JM  
AND SHRI DR. DIPAK P. RIPOTE, AM**

आयकर अपील सं. / ITA No.111/PUN/2019  
निर्धारण वर्ष / Assessment Year : 2014-15

M.B. Sugars & Pharmaceuticals Ltd.,  
Lodha Bhavan,  
Satana Road,  
Malegaon, Nashik  
Pin - 423 203

PAN : AABCM2351A

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Circle, Malegaon

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod S Shingte  
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 15.06.2022  
घोषणा की तारीख / Date of Pronouncement : 29.07.2022

**आदेश / ORDER**

**PER S. S. GODARA, JM :**

1. This assessee's appeal for A.Y. 2014-15 is directed against the CIT(A)-1, Nashik's order dated 05/11/2018 passed in case No. Nsk/CIT(A)-1/312/16-17 involving proceedings u/s. 143(3) of the Income Tax Act, 1961; in short "the Act".

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance both the lower authorities have erred in law and on facts in disallowing its sales tax written off claim amounting to Rs.8,19,732/- in issue, we find that the CIT(A) detailed discussion to this effect reads as under :

**CIT(A) 5.0 TO 5.3**

**5.0 Ground No.1** is directed against the disallowance of MVAT credit of ₹ 8,19,732/-.

*I have carefully considered submissions of the appellant, the observations of the AO in the assessment order and the facts of the case.*

**5.1** The Assessing Officer has disallowed the Sales Tax written off of ₹ 8,19,732/- on the ground that, as per VAT Tax Audit Report, the appellant has claim an admissible refund of ₹ 8,19,732/-, out of the total written off claim of ₹ 28,90,837/-.

**5.2** On the other hand, the AR of the appellant has stated that, the VAT pertaining to F.Y.2012-13 was written off during the year under appeal and therefore, the written off VAT receivable of ₹ 28,90,837/- has been claimed as deduction u/s.36(1)(vii) of the Act. The AR of the appellant further stated that, the appellant has received refund of ₹ 5,13,723/- during the F.Y.2017-18 which is offered for taxation in the ITR for A.Y.2018-19. Therefore, if the addition of ₹ 8,19,732/- made by the AO is confirmed, then the appellant would be eligible for deduction of ₹3,06,009/-. The appellant has already offered for taxation the same amount same amount in the return of income of A.Y.2018-19, which clearly shows that there is no revenue loss, if the appeal of the appellant is allowed because the appellant has already offered ₹5,13,723/- as income for A.Y.2018-19.

**5.3** On perusal of the above stated facts, the appellant is not denying the fact the that, as per VAT Tax Audit Report of F.Y.2013-14, the appellant has claim an admissible refund of ₹8,19,732/- in the

*assessment proceedings before the AO. Accordingly, the AO has disallowed the claim of VAT written off of ₹8,19,732/-, out of ₹28,90,837/- and allowed to the extent of ₹ 20,71,105/-.*

*In this regard, the disallowance/ addition made by the AO is justified on the ground that, the claim of VAT written off should in the year in which the claim of written off is permissible. I do not agree with the contention of the AR of appellant that, a sum of ₹5,13,723/- has been offered for taxation in A.Y.2018-19, as the AR of the appellant has not given the working of the details in what manner the same has been offered to tax. The AR of the appellant has stated that, if the addition made by the AO is confirmed, it will tantamount to double addition, however, the appellant can always take recourse by filing revised return of income or file rectification application before the AO.*

*In view of the above stated facts, the addition made by the AO is sustained and the appeal of the appellant on this ground is dismissed.”*

3. We have given our thoughtful consideration to vehement rival stands against and in support of impugned disallowance which is very much based on with assessee's auditors report only that this sum of Rs.8,19,732/- is very much an inadmissible claim. The fact also remains that the assessee has received a refund of actual sum of Rs.5,13,723/- in F.Y.2017-18 which stood was duly offered for taxation in A.Y.2018-19's return in light of MVAT's order to this effect. The assessee also appears to file its confirmation, audited accounts statement of the impugned refund and MVAT's order before the CIT(A) on 04.06.2018 ( page 4 in paper book).

4. That being the case, we are of the opinion that instant sole issue requires the Assessing Officer's afresh adjudication regarding the differential amount in the above twin figures as well as the impugned disallowance as per law. Ordered accordingly. Needful may be done within three effective opportunities of hearing.

5. This assessee's appeal is allowed for statistical purposes in above terms  
Order pronounced in the Open Court on this 29<sup>th</sup> day of July, 2022.

**Sd/-**

**(DR.DIPAK P.RIPOTE)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

**Sd/-**

**(S.S. GODARA)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> July, 2022.

Ashwini

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Nashik.
4. The Pr.CIT-1, Nashik.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File. आदेशानुसार / BY ORDER,  
// True Copy //

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

S.No.	Details	Date	Initials
1	Draft dictated on	15.06.2022	
2	Draft placed before author	28.07.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		

7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		