

आयकर अपीलीय अधिकरण  
कोलकाता 'ए' पीठ, कोलकाता में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA 'A' BENCH, KOLKATA**

डॉ मनीष बोर्ड, लेखा सदस्य

एवं

श्री संजय शर्मा, न्यायिक सदस्य

के समक्ष

**Before**

**DR. MANISH BORAD, ACCOUNTANT MEMBER**

**&**

**SONJOY SARMA, JUDICIAL MEMBER**

आयकर अपील संख्या: 145/कोल/2020

निर्धारण वर्ष: 2015-16

**I.T.A. No.: 145/Kol/2020**

**Assessment Year: 2015-16**

***Hygiea Biogenics (P) Ltd.....Appellant***  
***[PAN: AACCH 6877 K]***

***Vs.***

***DCIT, Circle-11(1), Kolkata.....Respondent***

**Appearances by:**

*None appeared on behalf of the Assessee.*

*Sh. Vijay Kumar, Addl. CIT, Sr. D/R, appeared on behalf of the Revenue.*

Date of concluding the hearing : September 19<sup>th</sup>, 2022

Date of pronouncing the order : September 28<sup>th</sup>, 2022

**आदेश**

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2015-16 is directed against the

order passed u/s 250 of the Income Tax Act, 1961 (in short the "Act") by ld. Commissioner of Income-tax(Appeals)-24, Kolkata [in short ld. "CIT(A)"] dated 28.11.2019 which is arising out of the assessment order framed u/s 143(3) of the Act dated 26.12.2017.

2. The assessee is in appeal before this Tribunal raising the following grounds:

*"1. For that on the facts and in the circumstances of the case, the ld. CIT(A) grossly erred in confirming the disallowance of Rs. 1,82,90,217/- on account of loss incurred on sale of land.*

*2. For that on the facts and in the circumstances of the case, the ld. CIT(A) was not justified in confirming the addition of Rs. 58,77,000/- made u/s 68 on account of Unsecured loans.*

*3. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing."*

3. When the case was called for, none appeared on behalf of the assessee. Perusal of the records shows that the case has been listed for hearing first time on 03.08.2020 and thereafter none appeared on 03.08.2020, 25.11.2020, 29.12.2020, 04.01.2022, 15.02.2022, 07.06.2022 and today i.e. 19.09.2022. Notices have also been sent through registered post on multiple occasions but it ended up in a futile exercise. It seems that the assessee is either not interested in pursuing the appeal or it has no material to place before this Tribunal in support of its grounds. We, therefore, decide to adjudicate the issue raised in the appeal on merits of the case.

4. Brief facts of the case are that the assessee is a private limited company and loss of Rs. 5,84,24,551/- declared in the return of income for AY 2015-16 filed on 30.09.2015. After the case being selected for scrutiny assessment, followed by serving of notices u/s 143(2) & 142(1) of the Act, assessment u/s 143(3) of the Act was

framed on 26.12.2017 assessing loss at Rs. 3,94,36,221/- arrived at after making addition amounting to Rs. 1,89,88,330/-.

5. The assessee challenged this addition before ld. CIT(A) but partly succeeded.

6. Now, the assessee is in appeal before this Tribunal challenging the issue of disallowance of loss incurred on sale of land at Rs. 1,82,90,217/- and addition u/s 68 at Rs. 58,77,000/-

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7. Ld. D/R vehemently argued supporting the order of ld. CIT(A).

8. We have heard ld. D/R and carefully perused the records placed before us.

9. As regards ground no. 1 for the disallowance of loss incurred on sale of land at Rs. 1,82,90,217/-, we observe that the assessee sold a land in June, 2014 at Rs. 4,18,39,960/- and the said land was claimed to be purchased in October, 2013 at Rs. 6,01,30,177/-. Before both the lower authorities when the assessee was asked to furnish the details of the proof of purchase of land and the source of purchases, the assessee failed to file any such document. Since the primary onus is on the appellant company to prove the claim of alleged loss, we find that the assessee failed to furnish any such document in spite of being provided numerous opportunities. We are, therefore, inclined to hold that since the assessee has no material to place before us, ld. CIT(A) has rightly confirmed the view taken by ld. AO denying the claim of loss on sale of land at Rs. 1,82,90,217/-. We, thus, fail to

find any infirmity in the detailed finding of ld. CIT(A). Thus, ground no. 1 raised by the assessee is dismissed.

10. As regards ground no. 2 which relates to the addition for unexplained cash credit u/s 68 of the Act, we find that the assessee received loan of Rs. 58,77,000/- from two concerns namely (a) Aristocrat Dealer Pvt. Ltd. and (b) Snehsil Merchandise Pvt. Ltd. The assessee was asked to prove the identity and creditworthiness of the cash creditor and the genuineness of the transaction. But the assessee failed to furnish any such documentary evidence in the form of confirmation letters, bank statement, identity details, income tax returns. Even the notice issued u/s 133(6) of the Act to the alleged cash creditors were returned unserved. Ld. CIT(A), after examining the issue in detail and after considering the ratios laid down by various decisions of Tribunals including the one of Coordinate Bench of Ahmedabad in the case of *M/s. Nakoda Fashion Pvt. Ltd. vs. Department* in ITA No. 1716/Ahd/2012 order dated 18.08.2016 has rightly held that since the assessee failed to prove any of the three limbs required to be complied to by the assessee for explaining the cash credit u/s 68 of the Act, the addition has rightly been made by ld. AO.

11. We, therefore, under the given facts and circumstances of the case, find that the assessee has no documentary evidence whatsoever to explain the source of cash credit of Rs. 58,77,000/- and, therefore, ld. AO has rightly invoked the provision of Section 68 of the Act. Thus, no interference is called for in the finding of ld. CIT(A). Therefore, ground no. 2 raised by the assessee is dismissed.

12. Ground no. 3 is general in nature which needs no adjudication.

13. In the result, the appeal filed by the assessee is dismissed.

***Kolkata, the 28<sup>th</sup> September, 2022.***

*Sd/-*

[Sonjoy Sarma]  
Judicial Member

*Sd/-*

[Manish Borad]  
Accountant Member

Dated: 28.09.2022

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Hygiea Biogenics (P) Ltd., Room No. 202, Mehta House, 2<sup>nd</sup> Floor, 27A, Waterloo Street, Kolkata-700 069.**
- 2. DCIT, Circle-11(1), Kolkata**
3. CIT(A)-24, Kolkata.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata