

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI
BEFORE
SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No. 1120/Del/2016
Asstt. Year : 2011-12

Alchemist Lifesciences Ltd., Building No. 23, Nehru Place, New Delhi- 110 019. PAN AABCV3029Q	Vs.	DCIT, Circle-1(1) New Delhi.
(Appellant)		(Respondent)

Assessee by:	None
Department by :	Ms. Anupama Singla, Sr. DR
Date of Hearing	29.08.2022
Date of pronouncement	16.11.2022

ORDER

This is an appeal by the assessee against order dated 13.01.2016 passed by learned Commissioner of Income Tax (Appeals)-1, New Delhi confirming penalty imposed of Rs. 1,35,00,000/- under section 271(1)(c) of the Income Tax Act, 1961 for the assessment year 2011-12.

2. At the outset, we must observe, when the appeal was called for hearing none appeared on behalf of the assessee to represent the case despite service of notice. Even, there is no application seeking adjournment. On perusal of record, it is observed, on several occasions earlier when the appeal came up for hearing, none appeared on behalf of the assessee. The aforesaid facts

clearly reveal that not only the assessee is negligent in its approach in so far as the present appeal is concerned, but, there is inherent lack of interest. Since, sufficient opportunity of being heard has been granted to the assessee, which the assessee has failed to avail, we are inclined to proceed with the hearing of the appeal, ex parte, qua the assessee, after considering the submissions of learned Departmental Representative and based on material available on record.

3. Briefly the facts are, the assessee is a resident corporate entity stated to be engaged in the business of marketing and trading of medicines & pharmaceuticals products. For the assessment year under dispute, assessee filed its return of income on 28.09.2011 declaring loss of Rs. 7,85,35,862/-. In course of assessment proceedings, the Assessing Officer noticed that the assessee had debited an amount of Rs. 4,03,63,883/- towards salary and wages and daily allowance of employees of sister concern Alchemist Limited. Being of the view that part of the expenditure is non genuine, the Assessing Officer disallowed 50% of such expenses and added back an amount of Rs. 2,01,81,941/- to the income of the assessee. Further, the Assessing Officer disallowed various other expenses, such as, selling and distribution expenses, sundry creditors balance, interest paid on unsecured loans, interest corresponding to interest free loan etc. As a result of such additions / disallowances, the loss returned by the assessee was reduced to Rs. 3,90,85,100/-. Based on the additions/disallowances made, the Assessing Officer initiated proceedings for imposition of penalty under section 271(1)(c) of the Act alleging concealment of

income and furnishing of inaccurate particulars of income. Ultimately, the Assessing Officer passed an order imposing penalty of Rs. 1,35,00,00/- under the said provision. The penalty so imposed was also confirmed by learned Commissioner (Appeals).

4. We have considered the submissions of learned Departmental Representative and perused the material on record. It is evident, before the Assessing Officer the assessee failed to produce clinching evidence to justify claim of various expenditure. Accordingly, the Assessing Officer disallowed a part of the expenditure claimed. It is observed, the assessee contested the additions/disallowance made by the Assessing Officer by filing an appeal before learned Commissioner (Appeals). However, the appeal was ultimately withdrawn. Thus, essentially, assessee accepted the additions / disallowances made by the Assessing Officer. Neither before the Assessing Officer nor before learned Commissioner (Appeals) the assessee was able to furnish any reasonable explanation to demonstrate that there is no deliberate attempt to either conceal the income or furnish inaccurate particulars of income. The aforesaid factual position remains unaltered before us. Keeping in view the concurrent finding of the Departmental Authorities in the assessment and penalty orders, which the assessee has failed to rebut by leading proper evidence before us, we are inclined to uphold the decision of learned Commissioner (Appeals). Grounds raised are dismissed.

5. In the result appeal is dismissed.

**Order pronounced in the open court on 16th
November, 2022.**

sd/-

sd/-

**(G.S. PANNU)
PRESIDENT**

(SAKTIJIT DEY)

JUDICIAL MEMBER

Dated: 16/11/2022

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	