

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'G' BENCH  
MUMBAI**

**BEFORE: SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
&  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.6283/Mum/2016  
(Assessment Year :2012-13)**

M/s. Gramos Chemicals India Pvt. Ltd. Royal Insurance Building 14, Jamshedji Tata Road Mumbai – 400 020	Vs.	Assistant Commissioner of Income Tax-15(1)(2) Mumbai
<b>PAN/GIR No. AAACG1732C</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Dhiren P Talati
Revenue by	Shri A.K. Das
<b>Date of Hearing</b>	<b>16/11/2022</b>
<b>Date of Pronouncement</b>	<b>28/12/2022</b>

**आदेश / O R D E R**

**PER B.R. BASKARAN (A.M.):**

The assessee has filed this appeal challenging the order dated 12/08/2016 passed by Id. CIT(A)-24, Mumbai and it relates to A.Y.2012-13. The assessee is aggrieved by the decision of Id. CIT(A) in partially confirming addition of Rs.3.50 Crores made by AO.

2. The facts relating to the above said issue are stated in brief. The assessee is engaged in the business of manufacturing of chemicals used in paints. During the year under consideration, the assessee sold its chemical business to M/s. Chemetail Rai India Pvt. Ltd for a sum of

Rs.7.25 Crores. Out of the above said sum, the assessee did not offer a sum of Rs.3.50 Crores for taxation on the ground that the same represents capital receipt arising on sale of 'self-generated asset', i.e., it was the contention of the assessee that the acquisition cost of self generated asset is 'Nil' and hence computation provision would fail. The break-up details of Rs.7.25 Crore is given below:-

No.	Particulars	Sale Value	Offered to Tax as
1	Fixed Assets	6,12,700/-	Business Income
2	Intangible Assets		
a.	Gramos Trademarks	75,00,000/-	Taxable Long Term Capital Gains
b.	Process Know How & Formulations	1,00,00,000/-	
c.	Manufacturing License	40,00,000/-	
d.	Goodwill	33,87,300/-	
3	Market Information		
a.	Commercial Information	70,00,000/-	Taxable Long Term Capital Gains
b.	Customer Data/Customer Lists / Customer Networks / Sales Data	2,00,00,000/-	Being Self Generated Capital asset with NIL cost of acquisition claimed exempt
c.	Distribution Networks & Rights	75,00,000/-	
d.	Suppliers Contracts	75,00,000/-	
4	Non-Compete Fees	50,00,000/-	Offered as business Income u/s.28(va)
	TOTAL	7,25,00,000/-	

3. The nature of asset related to the above said amount of Rs.3.50 crores was "customer data/ customer list/ customer network/ sales data; distribution network and rights and suppliers contracts". The AO did not accept the contentions of the assessee. He also examined the business transfer agreement entered by the assessee with the buyer and noticed that assessee has signed a non-compete agreement also. The AO took the view that the amount of Rs.3.50 Crores is taxable as business receipts of the company and accordingly, assessed the same. The Id. CIT(A) confirmed the order passed by the AO and hence the assessee has filed this appeal.

4. The Id. AR contended that above said receipts arising on sale of self generated assets is not liable to tax. On the contrary, the Id. DR supported the order passed by Id. CIT(A).

5. We heard the parties and perused the record. We noticed that Id. CIT(A) has confirmed the addition with the following observation:-

*"2.4.30 In any case, in the present appeal, even if it is assumed without admitting that the assets in question were self generated, it could not be said that there was no cost of acquisition to the same because the very nature of market information dealing with commercial information, customer data, distribution networks and rights, suppliers' contracts could be generated only by application of and resources run by the appellant company over a period of time for which salary, bonus and other infrastructural expenses were made out from time to time. In above view of the matter, a nominal sum for acquisition of the above assets could be estimated at say Rs.10 lac and the balance amount would definitely become taxable. Accordingly, it is held that firstly, the receipt in question pertains to the non- compete fees and hence, is fully taxable and in the event, if it is not held so, an estimated sum of Rs.10 lac could be said to be attributable to the acquisition of the market information such as commercial information, customer data, distribution networks and rights, suppliers' contracts etc. In the event, for statistical purpose, Ground No. 1 is treated as dismissed."*

6. Even though the assessee has contended that they are self-generated assets, what we notice is that the nature of asset, viz., "customer data/ customer list/ customer network/ sales data; distribution network and rights and suppliers contracts" are in the nature of commercial information collated by the assessee out of its business records. In our view, the said commercial information cannot be called "self generated asset" like that of "Good will", "brand name" etc. Hence, in our view, the AO was justified in treating these receipts as 'business receipts' and in assessing the same. We noticed that the Id. CIT(A) has also rejected the claim of assessee. However, he has estimated the cost incurred in generating the details of asset at Rs.10.00 lakhs and allowed the deduction there of. In any case, we agree with the view of the tax authorities that the above said amount of Rs.3.50 crores is taxable and cannot be considered as exempt. Accordingly, we do not find any reason to interfere with the order passed by the Id. CIT(A) on this issue.

**7. In the result, appeal filed by the assessee is dismissed.**

Order pronounced on 28/12/2022 by way of proper mentioning in the notice board.

**Sd/-**  
**(RAHUL CHAUDHARY)**  
JUDICIAL MEMBER

**Sd/-**  
**(B.R. BASKARAN)**  
ACCOUNTANT MEMBER

Mumbai; Dated 28/12/2022  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**