

**आयकर अपीलीय अधिकरण, कोलकाता पीठ “बी”, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्यके समक्ष

[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

**I.T.A. No. 352/Kol/2023**

**Assessment Year: 2014-15**

SAF Farmion Ltd. (PAN: AAFCS 3497 K)	Vs.	DCIT, Circle-11(1), Kolkata
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	25.05.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	16.06.2023
For the Appellant/ निर्धारिती की ओर से	Shri S. M. Surana, Advocate
For the Respondent/ राजस्व की ओर से	Shri P. P. Barman, Addl. CIT, Sr. D.R

**ORDER / आदेश**

**Per Rajesh Kumar, AM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)"] dated 27.03.2023 for the AY 2014-15.

2. The only issue raised by the assessee is against the confirmation of addition of Rs. 2,31,40,009/- as made by the AO on account of business promotion expenses.

3. Facts in brief are that the assessee filed return of income on 29.09.2014 disclosing total income of Rs. 1,52,70,840/-. The case was selected for scrutiny and statutory notices were duly issued and served on the assessee. The assessee is engaged in the business of manufacturing and re-seller of drugs and medicines. During the course of assessment proceedings, the AO observed from the profit and loss account the assessee has debited Rs. 2,31,40,009/- against the brand building marketing expenses under the head other expenses and has shown it under the head sales promotion including publicity. Accordingly the assessee called upon vide questionnaire dated 23.06.2016 to furnish the details and ledger copy of sales promotion expenses debited in profit and loss account and also produce the bills/vouchers for the same. The assessee replied by filing written submissions dated 15.09.2016 that the said expenses comprised of product information booklets, product literature and visual aids, business meetings, product charges paid for use of Trademarks and patents and gifts for distribution in trade circles. It was also submitted that TDS has been deducted at source wherever applicable on all the payments where the payments were made through bank vide RTGS. Again the AO called upon the assessee vide order sheet entry dated 15.09.2016 to submit the details of business promotion expenses party wise and expenses subhead wise with details of TDS deducted thereon and accordingly the case was adjourned to 22.09.2016. However, the AO noted that no compliance was made. Finally the AO added the same to the income of the assessee by disallowing on the ground that the assessee has failed to produce the business promotion expenses, vouchers and evidence of TDS etc.

4. In the appellate proceedings the Ld. CIT(A) dismissed the appeal of the assessee by reiterating the observations of the AO in the appellate order.

5. After hearing the rival contentions and perusing the material on record, we note that the assessee is a manufacturer and re-seller of drugs and medicines. During the year the total turnover of the assessee was Rs. 22,50,52,479/- and other income of Rs. 15,83,417/-. We also note that the brand building and marketing expenses are being regularly incurred by the assessee and charged to the profit and loss account. The

comparative chart of six years giving at glance the expenses vis a vis sales and percentage in which is reproduced as under:

SAF FERMION LIMITED  
PAN NO. AAFCS3497K  
FIN.YR. 2013-14, ASST. YR. 2014-15

SALE VS. BRAND-BUILDING AND MARKETING EXPENSES

	FIN.YR. 2009-10	FIN.YR. 2010-11	FIN.YR. 2011-12	FIN.YR. 2012-13	FIN.YR. 2013-14	FIN.YR. 2014-15
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
SALE	168852579	210135086	209049009	208320665	225052479	254409951
BRAND-BUILDING AND MARKETING EXPENSES	10530357	14154134	20696561	15581244	23140009	23559424
% of Sale	6.2%	6.7%	9.9%	7.5%	10.3%	9.3%

A perusal of the above chart reveals that this is a regular phenomenon to incur these expenses in the ordinary course of business. We have seen the details filed by the assessee vide letter dated 15.09.2016 submitting that the details of brand building and marketing expenses which is duly filed at page 29 to 32 of PB. We also note that the payment made to K. K. Gifts Pvt. Ltd. toward promotional item was Rs. 1,73,23,908/- the assessee has deducted tax at source on the said purchases and deposited the same into Govt. treasury. Similarly we also note that the business promotion expenses to the tune of Rs. 26,15,089/- were paid by Kotak Credit card. Thereafter the Ld. A.R also drew our attention to page 33 to 35 of PB which contained the copies of order sheets dated 15.09.2016, 22.09.2016, 28.12.2016 wherein the Ld. A.R pointed out that whatever information was required by the AO was duly given. The Ld. A.R pointed out that on 15.09.2016 the AO stated that the case was discussed and the AR to file written submissions regarding business promotion expenses. The Ld. A.R submitted that the case was partly discussed on that and the AO required the assessee to submit the details of business promotion expenses party wise and expenses sub-head wise with details of TDD made thereon and the case was adjourned to 22.09.2016. The Ld. A.R while drawing our attention to page 27 to 28 of the PB submitted that all these details were filed before the AO but the AO has not considered the same and passed assessment in a mechanical manner. We note the Id CIT(A) also dismissed by the Ld.

CIT(A) by ignoring all these facts on records. Considering these facts and circumstances as established by the order sheet entries and evidences filed by the assessee, we note that these expenses are incurred in the ordinary course of business right from FY 2009-10 to FY 2014-15. Having regards to the same, we are of the considered view the order of Ld. CIT(A) is not correct and has to be reversed. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

6. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 16<sup>th</sup> June, 2023

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)  
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)  
Accountant Member/लेखा सदस्य

Dated: 16<sup>th</sup> June, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- M/s SAF Farmion Ltd., 5<sup>th</sup> Floor, Ballygaunge AC New Market, 46/31/1, Gariahat Road – 700029.
2. Respondent – DCIT, Circle-11(1), Kolkata
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata