

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "J" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Smt. Kavitha Rajagopal (JM)

I.T.A. No. 2430/Mum/2022 (A.Y. 2018-19)

Solvay Specialities India Pvt. Ltd. Tower-4, 9 <sup>th</sup> Floor, Unit No. 903 Equinox Business Park, LBS Marg, Kurla West, Mumbai-70  PAN : AAJCS0613F (Appellant)	Vs.	National Faceless Appeal Centre, Delhi/ DCIT-16(2) Mumbai.  (Respondent)
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Assessee by	Shri Dhanesh Bafna, Ms. Riddhi Maru & Shri Pratik Shah
Department by	Shri Samuel Pitta
Date of Hearing	08.06.2023
Date of Pronouncement	31.07.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the assessment order dated 27-07-2022 passed by the assessing officer u/s 143(3) r.w.s 144C(13) of the Act for assessment year 2018-19 in pursuance of directions given by Ld Dispute Resolution Panel (DRP).

2. The assessee is engaged in the business of manufacturing and trading of synthetic blended polymers, polyamide polymer and polymer intermediaries and other allied materials. The assessing officer passed the impugned final assessment in pursuance of directions given by Ld DRP. Aggrieved, the assessee has filed this appeal before the Tribunal.

3. The Ld A.R submitted that Ground No.1 & 2 urged by the assessee are general in nature.

4. Ground no.3 relates to the addition made towards Transfer Pricing adjustment. The Ld A.R submitted that the Transfer Pricing Officer (TPO) did not accept the Segmental results furnished by the assessee for the reason that they were not audited. Accordingly, he has made the Transfer pricing adjustment without considering segmental results. The Ld A.R submitted that the assessee has now got the segmental results audited and the said audited segmental accounts have been filed as additional evidences. He submitted that the consideration of audited segmental results is essential to effectively deal with the transfer pricing study of the assessee. Accordingly, he prayed that, in the interest of natural justice, these additional evidences may be admitted and they may be restored to the file of AO/TPO for examining the transfer pricing issue afresh.

5. We heard Ld D.R and perused the record. It is stated that the TPO has rejected segmental results for the reason that they are not audited. The assessee has now submitted audited segmental results before the Tribunal as additional evidences. According to Ld A.R, the consideration of the audited segmental results would have major impact in determining the Arms Length Price of the International Transactions. Accordingly, in order to render proper justice, we are of the view that the additional evidences need to be admitted. Accordingly, we admit the additional evidences.

6. Since these additional evidences are said to have impact on ALP of international transactions, we are of the view that they require examination at the end of AO/TPO. Accordingly, we restore the issue relating to Transfer pricing adjustment to the file of AO/TPO for examining it afresh by duly considering the audited segmental results.

7. Ground no.4 relates to the disallowance made u/s 40(a)(ia) of the Act. The Ld A.R submitted that the assessee did not deduct tax at source from certain payments during the year under consideration and hence the AO has

disallowed those expenses u/s 40(a)(ia) of the Act. The Ld A.R submitted that the assessee has deducted and remitted tax at source on those payments in the succeeding year and accordingly prayed that the AO may be directed to allow the claim in the succeeding year.

8. We heard Ld D.R and perused the record. It is the submission of Ld A.R that the tax has been deducted at source and also remitted in the succeeding year and accordingly it is prayed that the deduction should be allowed in the succeeding year. Since the claim of the assessee requires verification at the end of the assessing officer, we restore this issue to the file of the AO for examining the above said claim of the assessee and to allow the deduction as per the law stated in sec. 40(a)(ia) of the Act.

9. Ground no.5 relates to the disallowance made u/s 40(a)(i) of the Act. Identical submissions as made by Ld A.R for the preceding issue was made for this issue also, i.e., the assessee has deducted and remitted the TDS in the succeeding year. Accordingly, on identical reasoning, we restore this issue also to the file of AO for examining it in terms of sec. 40(a)(i) of the Act.

10. Ground No.6 relates to short credit of TDS. It is the submission of Ld A.R that the TDS of Rs.1,58,96,114/-, which was deducted in the name of M/s Rhodia Speciality Chemicals India P Ltd should be allowed credit, since the above said company has merged with the assessee company. Since this issue involves verification of factual aspects, we restore this issue to the file of AO for examining the claim of the assessee in accordance with law.

11. Ground no. 7 & 8 relate to charging of interest u/s 244A and 234D of the Act. These issues are consequential in nature and do not require adjudication.

12. Ground no.9 relates to the penalty proceeding initiated u/s 270A of the Act. This is premature in nature and hence does not require adjudication.

13. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 31.7.2023.

Sd/-  
(Kavitha Rajagopal)  
Judicial Member

Sd/-  
(B.R. Baskaran)  
Accountant Member

Mumbai.; Dated : 31/07/2023

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

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