

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH MUMBAI**

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
MS. PADMAVATHY S , ACCOUNTANT MEMBER**

**ITA No. 1576/Mum/2023  
(Assessment Year: 2017-18)**

SchottPoonawallaPvtLtd, 13, 1 <sup>st</sup> Floor,Plot.No.228, Mittal Chambers, BarristerRajniPatelMarg, Nariman Point, Mumbai-400021.	<b>बनाम/ Vs.</b>	CIT(A)/NFAC, Aayakar Bhavan, M.K.Road, Mumbai-400020.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACK2310G</b>		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

<b>Appellant by :</b>	Shri. Subhash S Shetty.AR
<b>Respondent by :</b>	Shri. Avinash Karpe.DR

सुनवाई की तारीख / <b>Date of Hearing</b>	25/07/2023
घोषणा की तारीख / <b>Date of Pronouncement</b>	31/07/2023

आदेश / ORDER

**PER PAVAN KUMAR GADALE - JM:**

The assessee has filed the appeal against the order of CIT(A)/NFAC Delhi passed under section 250 of the Income Tax Act, 1961 (“the Act”). The assessee has raised the following grounds of appeal:-

*Ground1 1. The order passed by the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, dismissing the appeal of the*

*Appellant and confirming the order of the assessing officer is illegal, bad in law and unsustainable in law and facts.*

*Ground 2. The learned Commissioner of Income-tax (Appeals) committed a gross error of law and fact in confirming the additional disallowance of Rs. 15,24,562 made by the assessing officer under section 14A of the Act, over and above Rs. 20,16,361 suo-motto disallowed by the Appellant. The Appellant submits that the above conclusion of the learned Commissioner of Income-tax (Appeals) is without any basis either in law or of facts of the case.*

*Ground 3. The learned Commissioner of Income-tax (Appeals) committed a gross error of law and fact in confirming the disallowance of Rs. 1,40,60,810 made by the assessing officer on an ad-hoc basis out of the sales commission, sales discounts, business promotion and miscellaneous expenses incurred by the Appellant during the year. The learned Commissioner of Income-tax (Appeals) grossly erred in upholding the impugned disallowance made by the assessing officer without any justification whatsoever.*

*Ground4. The learned Commissioner of Income-tax (Appeals) committed a gross error of law and fact in confirming the disallowance made by the assessing officer of Rs. 1,42,72,711 being provision for doubtful debts written back and Rs. 38,44,739 being adjustment in the diminution in value of stock, claimed by the Appellant as deductible. The learned Commissioner of Income-tax (Appeals) grossly erred in simply upholding the conclusion of the assessing officer without any basis or justification whatsoever*

2. The brief facts of the case that, the assessee company is engaged in the business of manufacturing of tubular glass products viz. glass ampoules and glass vials, prefill syringes & dental cartridges. The assessee has filed the return of income for the A.Y 2017-18 on 30.11.2017 disclosing a total income of Rs. 74,90,65,340/- and book profits computed u/s 115JB of the Act of Rs.57,83,60,694/-, further the assessee has filed the revised return of income on 30.05.2018 disclosing a total income of Rs.74,89,24,830/- and book profits computed u/s 115JB of the Act of Rs. 57,83,60,694/-. Subsequently the case was selected for scrutiny under CASS and notice u/s 143(2) and 142(1) of the Act are issued. In compliance to the notice, the assessee has filed the details from time to time. On perusal of the perusal of the balance sheet, the Assessing Officer (AO) found that the assessee has made investments and has claimed the exemption of dividend income. The assessee was also called to submit the details of expenses incurred for making long term investments and the details of average value of investments. In response, the assessee has submitted the requisite details, whereas (i) the AO found that the assessee has not considered the complete exempt income yielding investments in average monthly values for the purpose of disallowance u/s 14A of the Act. The AO dealt on the provisions and invoked the provisions of Sec. 14A r.w.r 8D(2)(iii) and computed the disallowance u/s 14A of Rs. 35,40,923/-and after considering the

disallowance made by the assessee of Rs. 20,16,361/- the AO has made net addition of Rs. 15,24,562/-. (ii) the second disputed issue, the AO found in the profit & Loss account that the assessee has claimed the expenses on account of sales commission, sales discount, business promotion and business expenses. During the assessment proceedings the assessee was called to submit the details and the justification on claim of expenses. Whereas the assessee has filed the details vide letter dated 20.12.20109 explaining the nature of the expenditure and the information in respect of the expenses incurred for the purpose of business.

3. Whereas the AO was not satisfied with the explanations and is of the opinion that assessee could not substantiate entirely with supporting evidences and whether such expenses are incurred for the purpose of business and estimated the disallowance @10% of the claim, which worked out to Rs.1,14,60,810/-. (iii) The last disputed issue, the AO found that the assessee has claimed provision for bad debts written off and also the adjustment in diminishing in value of the stock. The AO on perusal of the computation of income found that assessee company has claimed deduction of Rs.1,42,72,711/- in respect of provision for doubtful debts and Rs.38,44,739 being adjustment in the diminution in value of stock and a show cause notice and there was no compliance. Further in lieu of notice U/sec142(1) of the Act,

The assessee has filed the submissions on 20.12.2019 mentioning that the company has been consistently following the method of accounting and treatment in the books of account. The assessee company furnished the computation of income for the F.Y 2015-16 highlighting the add back of provision for doubtful debts on creation of provision and was reversed to the extent of Rs,1,42,72,711/- and similarly the same method of accounting was followed for adjustment/ inventory of stock. Whereas the AO was not satisfied with the submissions as the details submitted by the assessee does not reveal the complete information and how the amounts were recovered in the year and basis of adjustment in diminution of value of stock and are unverifiable and made additions. Finally, the AO has assessed the total income of Rs.78,00,27,660/- and passed the order u/s 143(3) of the Act dated 22.12.2019.

4. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) considered the grounds of appeal, submissions of the assessee and findings of the AO and was not satisfied with the explanation and has sustained the additions made by the AO and dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in not considering the fact that the additional disallowance u/s 14A of the Act made by the AO is without any basis and there is no satisfaction was recorded by the AO and the assessee has prima-facie has made disallowance of Rs.20,16,361/- to comply the provisions U/sec14A of the Act The second disputed issue, the Ld. AR submitted that the assessee has been consistently adopted the accounting system from earlier years and substantial information was filed, whereas the A.O overlooking the factual aspects and financial statements has estimated the disallowance at higher side. The third disputed issue, the Ld. AR submitted that the assessee has complied with the information on the provision for doubtful debts written back and adjustment in diminution in the value of stock and the assessee company has been consistently following the method of accounting and treatment in the books of account. The Ld. AR substantiated the submissions with the paper book, judicial decisions and fact sheet and prayed for allowing the assessee appeal. Contra, the Ld. DR supported the order of the lower authorities.

6. We heard the rival submissions and perused the material on record. The Ld. AR submitted that the CIT(A) erred in sustaining the additions irrespective of the fact that the assessee has filed substantial information before the

authorities. On the first disputed issue, the Ld. AR contentions are that the assessee has made investments and disclosed in the balance sheet and further in respect of dividend income earned and claimed exempt, the assessee has suo moto made disallowance u/s 14A of the Act which worked out to Rs. 20,16,361/- The contentions of the Ld. AR that the assessee has prima-facie has submitted all the details and the AO has not recorded the satisfaction in this regard and the AO has not pointed out that there is mistake in the disallowance computed by the assessee u/s 14A of the Act. Further the Ld. AR has demonstrated the facts referring to the assessment order page 3 Para 5.6 of the order, we found that the AO had only mentioned of the facts and has computed the disallowance which cannot be disputed. Prima-facie the AO has not recorded the satisfaction on the disallowance and we rely on the decision of Hon'ble High Court of Bombay in the case of Pr. CIT Vs. Godrej & Boyce Mfg. Co. Ltd [2023] 149 taxmann.com 222 (Bombay) held as under:

*Section 14A of the Income-tax Act, 1961 read with rule 8D of the Income-Tax Rules, 1962 - Expenditure incurred in relation to income not includible in total income (Scope of provision) Assessment year 2011-12 - Assessee earned exempt income from shares and mutual funds and submitted computation of inadmissible expenditure under section 14A and claimed that disallowance made under section 14A was as per books of account attributable to earning of exempt income Assessing Officer made disallowance under section 14A read with rule 8D(2)(ii) of interest expenditure - Whether provision under section 14A(2) does not empower Assessing Officer to apply*

*rule 8D straightaway without considering correctness of assessee's claim in respect of expenditure incurred in relation to exempt income - Held, yes - Whether since Assessing Officer had neither examined claim in respect of expenditure incurred in relation to exempt income nor had recorded any satisfaction that working of inadmissible expenditure under section 14A was incorrect, interest expenditure could not be disallowed under section 14A read with rule 8D(2)(ii) - Held, yes [Para 11] [In favour of assessee]*

We respectfully following the ratio of the decision and direct the Assessing officer to delete the addition of Rs.15,24,562/- and allow the ground of appeal of the assessee.

7. The second disputed issue is with respect of disallowance of expenses as the AO found that the assessee could not substantiate with the complete details. On perusal of the facts, we found that the assessee has substantial turnover and has incurred expenditure for the purpose of business. Prima-facie the expenditure is incurred in the relation to sales commission, sales discount and business promotion and miscellaneous expenses. The Ld.AR referred to the letters filed before the AO at page No. 28 to 46 of the paper book explaining the various details. Prima-facie, we found that the AO has not disputed the genuineness of the expenditure claimed and have been incurred for the purpose of business wholly and exclusively. But the fact remains that the assessee could not support with complete details and the AO has come to a conclusion that

the claim cannot be allowed and without pointing out any defect in the expenses claimed has the estimated disallowance @10%. We considered the facts, the turnover and the nature of business operations of the assessee and the contentions of the Ld.AR that estimation is on higher side. Accordingly, we restrict the addition considering the fact of non production of complete details expenses @ 5% as against @10% and direct the A.O accordingly and partly allow the ground of appeal of the assessee.

8. The third disputed issue with respect to provision of doubtful debts written back and adjustment in diminution in value of stock in the financial statements. The assessee has filed the details before the lower authorities. Prima-facie the A.O has not considered the information and made disallowance without verification and examination of facts that the company has been consistently following the method of accounting and treatment in the books of account. The assessee company has furnished the computation of income for the F.Y 2015-16 highlighting the add back of provision for doubtful debts on creation of provision and was reversed to the extent of Rs,1,42,72,711/- and similarly the same method of accounting was followed for adjustment/ inventory of stock of Rs,38,44,739/- Accordingly, to meet the ends of justice, set aside the order of the CIT(A) on this disputed issue and restore the issues to the file of the assessing officer to

decide afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information. And we allow the grounds of appeal of the assessee for statistical purposes.

9. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 31.07.2023.

Sd/-

**(PADMAVATHY S)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 31/07/2023  
Shubham Lohar

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / Concerned CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

1.

उप/सहायक पंजीकार ( Asst. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Mumbai