

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

**SHRI BR BASKARAN, ACCOUNTANT MEMBER  
AND  
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.4084/M/2024  
Assessment Year: 2012-13  
&  
ITA No.4078/M/2024  
Assessment Year: 2013-14**

<b>M/s. Zoetis Pharmaceutical Research Private Limited, 31 Kalpataru Synergy, Level 3, Opp. Grand Hyatt, Santacruz (East), Mumbai Maharashtra - 400055 PAN: AADCP5293L</b>	<b>Vs.</b>	<b>The Deputy Commissioner of Income Tax-3(3)(1), (Erstwhile Assistant Commissioner of Income Tax - 11(3)(2), Mumbai) Aayakar Bhawan, M.K. Road, Mumbai Maharashtra - 400020</b>
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Anish Thacker, Ld. A.R.  
Revenue by : Shri Swapnil Sawant, Ld. SR. A.R.

Date of Hearing : 19.11.2024  
Date of Pronouncement : 26.11.2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

These appeals have been preferred by the Assessee against the order even dated 19.06.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2012-13 & 2013-14.

**2.** Both the cases prima-facie appears to be identical, as the Ld. Commissioner in both the appeals under consideration has decided the appeals filed by the Assessee by passing ex-parte and therefore for the sake of brevity the same were heard together and are being disposed of by this composite order by taking into consideration the facts and circumstances of the case i.e. ITA No.4078/M/2024 as a lead case and result of the same shall apply mutatis mutandis to both the appeals under consideration.

**3. ITA No.4078/M/2024**

In the instant case, the Assessee had declared its total income of Rs.36,79,29,860/- by filing its return of income on 30.11.2013 for the AY under consideration, which was subsequently selected for scrutiny and ultimately resulted into passing the assessment order dated 28.12.2016 u/s 143(3) r.w.s. 92CA(3) of the Act, whereby the disallowance of Rs.3,01,13,070/- u/s 40(a)(ia) of the Act was made.

**4.** The Assessee, being aggrieved, challenged the said addition before the Ld. Commissioner, however, in spite of affording 9 opportunities except requesting for adjournment on 8 occasions eventually made no compliance. Therefore, in the constrained circumstances as the Assessee failed to file any documents in support of its claim and rebut the

assessment order, the Ld. Commissioner was constrained to dismiss the appeal of the Assessee by an ex-parte order and consequently affirmed the assessment order.

**5.** The Assessee, being aggrieved, is in appeal before us. Though the Assessee before us claimed for leniency, however, we observe from para-no.5.3 of the assessment order that the Assessee in order to substantiate its claim has also not produced any documentary evidences like invoices, debit notes etc. and therefore in the constrained circumstances the addition under challenge has been made by the Assessing Officer (AO). From the orders passed by the authorities below, the conduct of the Assessee prima-facie appears to be non-compliant and therefore the Assessee is not entitled for any leniency. However, considering the peculiar facts and circumstances, as the authorities below in the absence of relevant evidence which the Assessee failed to file and in the absence of proper representation, failed to decide the issue under consideration in its right perspective and therefore for the just decision of the case and substantial justice and considering the conduct of the Assessee, we are inclined to set aside the impugned order, however, subject to deposit of Rs.25,000/- in the Revenue department.

**6.** We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency in any circumstances.

**7.** Consequently, the case is remanded to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee, however, subject to the deposit of Rs.25,000/- in the Revenue Department within 30 days from the date of receipt of this order. In the result, the appeal {ITA No.4078/M/2024} filed by the Assessee stands allowed for statistical purposes.

**8.** In the result, both the appeals are allowed for statistical purposes on the same terms and conditions enumerated above.

**Order pronounced in the open court on 26.11.2024.**

**Sd/-  
(BR BASKARAN)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.