

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

**SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.1228/MUM/2025
(Assessment Year: 2013-2014)**

Colorband Dyestuff Private Limited

7/7, Tardeo A/c Market Building,
Tardeo Main Road, Tardeo, Mumbai - 400034.
Maharashtra.
[PAN:AAACC9898F]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax
5(1)(1), Mumbai**

Aaykar Bhavan, Churchgate,
Mumbai – 400051, Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Niraj Punmiya
For the Respondent/Department : Ms. Vranda Matkari

Date

Conclusion of hearing : 08.04.2025
Pronouncement of order : 27.05.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against the order, dated 27/12/2024, passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] whereby the Ld. CIT(A) had dismissed the appeal against the Assessment Order, dated 27/03/2022, passed under Section 147 read with Section 144 read with Section 144B of the Act for the Assessment Year 2013-2014.

2. The Assessee has raised following grounds of appeal :

"1. *The Ld CIT(A) erred in confirming the addition of Rs.73,19,768/- u/s.68 of the act wrongly treating the same as*

bogus and fictitious loan from Dishman Pharmaceuticals and chemicals limited.

2. *The Ld. CIT(A) erred in initiating penalty proceedings u/s.271(1)(c) of the Act.”*
3. When the appeal was taken up for hearing the Learned Authorised Representative pleaded that the order passed by the CIT(A) be set aside since the Assessee was proceeded ex-parte by the CIT(A). It was submitted that the managing director of the Assessee-Company was not aware of notice of hearing issued by the Learned CIT(A). It was further submitted that the Assessee had a good case on merits. The Assessing Officer has made addition of INR.73,19,767/- in the hands of the Assessee on the ground that the Assessee had taken a fictitious loan from Dishman Pharmaceuticals and Chemicals Ltd during previous year 2012-2013. However, the Assessee had never taken any loan of whatsoever nature from the said entity i.e. Dishman Pharmaceuticals and Chemicals Ltd. It was submitted that the Assessee had paid sales commission (along with service tax) to the Dishman Pharmaceuticals and Chemicals Ltd for sales of INR.82,24,490/- made to M/s. Welspun India Limited and a debit note on this account was raised by Dishman Pharmaceuticals and Chemicals Ltd on the Assessee. The Assessee had deducted tax at source amounting on the said amount and had duly recorded the transaction in the books of accounts. It was submitted that in case an opportunity was granted, the Assessee would be able to make out a good case on merits.
4. Per contra, the Learned Departmental Representative submitted that the Assessee was non-compliant during the assessment and appellate proceedings. Despite getting opportunities, the Assessee failed to make proper representation. Therefore, the order passed by the CIT(A) should be sustained.
5. We have considered the rival submissions and have perused the

material on record.

6. On perusal of the order impugned we find that the Assessee was proceeded ex-parte by the Ld. CIT(A) and the appeal preferred by the Assessee was dismissed. While dismissing the appeal, the Learned CIT(A) has recorded as that the appeal was being dismissed without going into the merit of the case as the Assessee had failed to substantiate its claim with supporting documentary evidence. On perusal of the 'Statement of Facts' filed before the CIT(A), we find that the Assessee has set up a case that the amount of INR.73,19,767/- added in the hands of the Assessee was actually commission payable by the Assessee to Dishman Pharmaceuticals and Chemicals Ltd in respect of sales made by the Assessee to M/s. Welspun India Limited. It was stated therein that in support the Assessee had also furnished invoices, ledger account and bank statement along with reply dated 25/02/2022. However, this was not taken into consideration by the CIT(A). The Assessee has also pleaded that the notice of hearing issued by the Learned CIT(A) were not in the knowledge of the managing director and non-compliance of the aforesaid notice was not deliberate. Accordingly, given the facts and circumstances of the present case we deem it appropriate and in the interest of justice to set aside the Order, dated 27/12/2024, passed by the CIT(A) with the directions to adjudicate the appeal afresh after granting the Assessee a reasonable opportunity of being heard. Therefore, taking into consideration the overall facts and circumstances of the present case we deemed it appropriate to remand the issue back to the file of the CIT(A) with the direction to adjudicate the same afresh after taking into consideration the submissions of the Assessee and the documents/details to be furnished by the Assessee in support of the claim. The Assessee is also directed to co-operate in the appellate proceedings and forthwith file details, documents & submission in support of its claims/contentions before the CIT(A). It is clarified

that the Assessee shall be granted reasonable opportunity of being heard. The Assessee is directed to be vigilant and track the appellate proceedings through Income Tax Business Application Portal. In case the Assessee fails to enter appearance and/or fails to file details/documents/submission in response to notice of hearing issued by the CIT(A), the CIT(A) shall be at liberty to decide the issues on merits on the basis of material on record. In view of the above Ground No. 1 raised by the Assessee is allowed while Ground No.2 is dismissed as being premature.

7. In result, the present appeal preferred by the Assessee is allowed for statistical purposes.

Order pronounced on 27.05.2025.

Sd/-
(Om Prakash Kant)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated :27.05.2025
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai