

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC-2" NEW DELHI
BEFORE SHRI S.V. MEHROTRA : ACCOUNTANT MEMBER

ITA no. 6527/Del/2014
Asstt. Yr: 2009-10

Nestor Pharmaceuticals Ltd., Vs. ACIT Circle 13(1),
G-1, Ground Floor, Ashoka Estate, New Delhi.
24, Barakhamba Road,
New Delhi.
PAN: AAACN 1547 Q

(Appellant)

(Respondent)

Appellant by : Sh. Saurabh Goel CA
Respondent by : Shri A. Srinivasa Rao Sr. DR

Date of hearing : 05/07/2016.
Date of order : 08/07/2016.

ORDER

PER S.V. MEHROTRA, A.M:

This is assessee's appeal against the order dated 29.08.2014, passed by the Id. CIT(A)-XVI, Delhi, relating to A.Y. 2009-10.

2. Ground of appeal, raised by the assessee in its appeal, are as under:

“1. On the facts and circumstances of case and in law, the Ld. CIT (A) erred in passing ex- parte order.

2. On the facts and circumstances of case and in law, the Ld. CIT (A) erred in dismissing the appeal without deciding the appeal on merit and without adjudicating the various grounds of appeal raised by the appellant.

3. On the facts and circumstances of case and in law, the order passed by Ld. CIT(A) is against the principles of natural justice as the order has been passed by CIT(A) without providing proper opportunity to the appellant.

4. On the facts and circumstances of case and in law, the disallowance / addition of RS.1143652/- made by A.O. on account of liquidated damages is erroneous and CIT(A) should have deleted the same.”

3. Brief facts of the case are that the assessee filed its return of income declaring loss of Rs. 40,81,507/-. The assessment was completed at a total loss of Rs. 28,77,830/-, after making disallowance u/s 14A and liquidated damages. The assessee preferred appeal before ld. CIT(A) who dismissed the assessee's appeal for non-prosecution.

4. Ld. counsel pointed out that two notices noted in ld. CIT(A)'s order were not served on assessee. He, therefore, requested that the matter may be restored back to the file of ld. CIT(A) for deciding the appeal on merits.

5. Having heard both the parties, in order to impart substantial justice to the assessee, I set aside the order of ld. CIT(A) and restore the matter to the

file of Id. CIT(A) for deciding the appeal on merits, after affording reasonable opportunity of being heard to the assessee.

6. In the result, assessee's appeal is allowed for statistical purposes..

Order pronouncement in open court on 08 /07/2016.

Sd/-
(S.V. MEHROTRA)
ACCOUNTANT MEMBER

Dated: 08/07/2016.

MP

Copy of order to:

1. Assessee
2. AO
3. CIT
4. CIT(A)
5. DR, ITAT, New Delhi.