

आयकर अपीलीय अधिकरण, मुंबई "के" खंडपीठ
Income-tax Appellate Tribunal -"K" Bench Mumbai

सर्वश्री राजेन्द्र, लेखा सदस्य एवं सी. एन. प्रसाद, न्यायिक सदस्य

Before S/Sh.Rajendra, Accountant Member and C.N. Prasad, Judicial Member
आयकर अपील सं./I.T.A./1375/Mum/2011, निर्धारण वर्ष /Assessment Year: 2006-07

Gharda Chemicals Limited 5/6, Jer Mansion, W.P. Varde Marg, Off Turner Road, Bandra (W), Mumbai-50. PAN: AAACG 1255 E	Vs.	DCIT, Circle-9(1) Aayakar Bhavan, Mumbai-400020.
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आयकर अपील सं./I.T.A./2321/Mum/2011, निर्धारण वर्ष /Assessment Year: 2006-07

ACIT, Range -9(1) Aayakar Bhavan, Mumbai-400 020.	Vs.	M/s.Gharda Chemicals Limited Mumbai-400 050.
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आयकर अपील सं./I.T.A./6588/Mum/2011, निर्धारण वर्ष /Assessment Year: 2008-09

ACIT, Range -9(1) Aayakar Bhavan, Mumbai-400 020.	Vs.	M/s.Gharda Chemicals Limited Mumbai-400 050.
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(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

प्रत्याक्षेप/C.O./No.139/M/2012, निर्धारण वर्ष /Assessment Year: 2008-09

Gharda Chemicals Limited Mumbai-400 050.	Vs.	DCIT, Circle-9(1) Aayakar Bhavan, Mumbai-400020.
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(Cross Objector)

(प्रत्यर्थी / Respondent)

Revenue by: Shri Debashish Chandra

Assessee by: Shri Gopal Bohra

सुनवाई की तारीख / **Date of Hearing: 13.04.2016**

घोषणा की तारीख / **Date of Pronouncement: 29.04.2016**

आयकर अधिनियम, 1961 की धारा 254(1) के अन्तर्गत आदेश

Order u/s.254(1) of the Income-tax Act, 1961 (Act)

लेखा सदस्य राजेन्द्र के अनुसार PER RAJENDRA, AM-

Challenging the orders of the Cs.IT(A) the Assessing Officer (AO) and the assessee have filed the appeals/cross objections for the above mentioned assessment years (AY.s.), raising various grounds of appeal. Assessee-company, engaged in the business of manufacture and sale of pesti-cides, insecticides, weedicides, veterinary-drugs and polymers. The details of filing of returns, returned incomes, assessed incomes etc. can be summarised as under:

A.Y.	ROI filed on	Returned Income (Rs.)	Assessment dt.	Assessed Income (Rs.)	Dt. of orders of CIT(A)
2006-07	29.11.2006	74,78,62,086/-	29.12.2008	160,49,85,410/-	13.01.2011
2008-09	31.10.2008	34,46,96,081/-	30.11.2010	81,06,19,820/-	28.06.2011

ITA/1375/Mum/2011, AY.2006-07:

2. The only ground of appeal is not allowing additional deduction of 50% (i.e 150% -100%) under section 35(2AB)(1) of the Act in respect of the expenditure of Rs. 15.57 crores incurred on in-house research and development activity carried out its Dombivili R&D facility.

While deciding the appeals for the AY.s.2004-05 and 2005-06 (ITA/5474/Mum/2009 & ITA/5348/Mum/2009 and ITA/8376/Mum/2010 & ITA/8758/Mum/2010), we have sent back the matter to the file of the AO for fresh adjudication. Following the same, Ground no.1 is decided in favour of the assessee, in part.

ITA/2321/Mum/2011,AY.2006-07:

3.First ground deals with deletion of disallowance of interest amounting to Rs.19.94 crores., u/s.36(1)(iii)of the Act.While deciding the appeals for the AY.s.2004-05 and 2005-06 (supra), we have decided the issue against the AO.Following the same,ground no.1 is dismissed.

4.Next ground of appeal is about deleting the addition of Rs.23.20 crores on account of unutilised modvat credit.We have restored back the issue to the file of the AO for fresh adjudication.He is directed to decide the issue as per the directions given in the order for the AY.2003-04.Ground no.2 is decided in favour of the AO,in part.

5.Next ground deals with deleting the addition of Rs. 27.54 crores on account of excise duty on closing stock.As the issue is directly related with the earlier issue,so,same is also restored back to the file of the AO,who would decide it after hearing the assessee.Ground no.3 is partly allowed.

6.Last ground (GOA-5)pertains to deletion of addition of Rs.66 Crores made u/s.2(22)(e)of the Act.Following our order for the AY.s.2005-05(supra),ground no.5 is dismissed.

ITA/6588/Mum/2001-AY.2008-09:

7.The solitary ground raised by the assessee is about deleting the addition of Rs.3.95 Crores on account of excess depreciation on intangible assets.We have decided the issue while adjudicating the appeal for the earlier years(supra).Following the same,we dismiss the ground raised by the AO.

C.O./No.139/M/2012,AY.2008-09:

8.During the course of hearing before us,the AR of the assessee did not press ground no.1. Hence,same stands dismissed as not pressed.

9.Second ground as about not mentioning the correct figure of depreciation with regard to the IPR.Before us,it was stated that the FAA had wrongly mentioned the figure of Rs.3,69,36,681 /- as against the correct amount of Rs.3,95,51,615/-.We are directing the AO verify the figure and take the correct figure.Ground no.2 is partly allowed.

As a result, appeals filed by the assessee and the AO for the AY.06-07 are partly allowed. Appeal of the AO for the AY.2008-09 stand dismissed and CO for that year is partly allowed. फलतः निर्धारिती और निर्धारिती अधिकारी द्वारा नि.व. 2006-07 के लिए दाखिल की गई अपीलें आंशिक रूप से मंजूर की जाती हैं.निर्धारिती अधिकारी की नि.व. 2008-09 की अपील नामंजूर की जाती है एवं निर्धारिती द्वारा नि.व. 2008-09 दाखिल □□या गया प्रत्याक्षेप आंशिक रूप से मंजूर किया जाता है.

Order pronounced in the open court on 29th April, 2016.
आदेश की घोषणा खुले न्यायालय में दिनांक 29 अप्रैल, 2016 को की गई।

Sd/-

(सी. एन. प्रसाद / C.N. Prasad)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांकDated : 29.04.2016.

Jv.Sr.PS.**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

Sd/-

(राजेन्द्र / Rajendra)

लेखा सदस्य / ACCOUNTANT MEMBER

1.Appellant /अपीलार्थी

2. Respondent /प्रत्यर्थी

3.The concerned CIT(A)/संबद्ध अपीलिय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त

5.DR "A " Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अ.न्याया.मुंबई

6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**

उप/सहायक पंजीकार **Dy./Asst. Registrar**

आयकर अपीलिय अधिकरण, मुंबई /**ITAT, Mumbai.**