

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "B" BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.1480/Ahd/2013
Assessment Year: 2009-10**

Smt. Nilamben Sandipbhai Parikh, vs. The Addl. C.I.T., Range – 6,
Prop: Shaily Dyes & Intermediates, Ahmedabad.
37, Vaibhav Bungalow,
Part-2, Bhuyangdev Cross Road,
Ghatlodiya,
Ahmedabad – 380 061.
[PAN – AFUPP 8565 N]
(Appellant) (Respondent)

Appellant by : Shri M.K. Patel, Advocate
Respondent by : Shri G.C. Daxini, Sr. D.R.

Date of hearing : 01.07.2022
Date of pronouncement : 22.07.2022

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by assessee against the order dated 05.02.2013 passed by the CIT(A)-XI, Ahmedabad for the Assessment Year 2009-10.

2. The assessee has raised the following grounds of appeal :-

- “(1) That on facts, and in law, the learned CIT(A) has grievously erred in confirming the addition of Rs.24,22,048/- made on account of unaccounted purchases.*
- “(2) That on facts, and in law, the learned CIT(A) has grievously erred in confirming the disallowance of business loss of Rs.47,01,251/-.*
- “(3) That on facts, and in law, and in the alternate and without prejudice to grounds no.2 above, the said disallowance has resulted in double addition, which ought to have been deleted by CIT(A), instead of restoring to file of AO”.*

3. The assessee is engaged in the business of trading in dyes, chemicals & intermediates. Assessee filed e-return of income on 30.09.2019 declaring total income of Rs.nil. During the year the assessee has shown gross turnover of Rs.75,89,25,857/-, gross profit of Rs.(-) 79,40,824 and net profit of Rs.(-) 47,01,251/-. After setting off of certain disallowances/additions carried forward net loss of Rs.46,98,715/- to the subsequent year by the assessee. After perusal of the submissions made by the assessee, the Assessing Officer made additions of Rs.24,22,048/- related to unaccounted purchases, Rs.47,01,251/- towards disallowance of loss and Rs.3,72,785/- towards disallowance of service tax paid.

4. Being aggrieved by the assessment order the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that as regards to ground no.1 related to addition on account of unaccounted purchases, there was a misunderstanding on the part of the Assessing Officer in respect of accounts relating to Metrochem Industries Limited. As per the Assessing Officer, there was a difference of Rs.24,12,048/- on account of Metrochem Industries Limited but from the perusal of the records which were submitted before the Assessing Officer it can be seen that the reconciliation of accounts between assessee i.e. Shaily Dyes and Metrochem has passed entry of Rs.26,41,516/- in the account of the assessee as sales made by them to assessee but in fact it was sales made by Metrochem to Tulsi marketing. The said fact was admitted by Metrochem and was duly certified by them. This mistake was rectified by Metrochem Industries in next accounting year and this purchase shown in VAT return tallies with the books which was accepted by the VAT Department. Thus, all the purchases being reconciled, the assessee is rightly stated that there is no case of unaccounted sales and hence addition should be deleted.

6. The Id. DR relied upon the order of CIT(A) and Assessment Order.

7. We have heard both the parties and perused all the relevant material available on record. The reconciliation of accounts between the assessee and Metrochem was

before the CIT(A) but there was no mention that this reconciliation was before the Assessing Officer. From the perusal of the reconciliation documents, it can be seen that the total purchase record from Shaily Dyes to Metrochem was Rs.14,95,00,056/- and total sales record by Metrochem to Shaily Dyes was Rs.13,90,51,261/- and thus sales record by Metrochem as on 31.03.2008 and by Shaily Dyes as on 01.04.2008 was Rs.1,04,48,795/- more but the same was in respect of Shaily Dyes invoice raised by Metrochem on 31.03.2008 taken by the assessee in subsequent A.Y. i.e. 01.04.2008 and, therefore, it was self-explanatory. These facts and the reconciliation submitted by the was never taken into account properly by the CIT(A) and the same should have been taken into account and the addition does not sustain. Hence, ground no.1 is allowed.

8. As regards ground no.2 related to disallowance of business loss of Rs.47,01,251/- the Ld. AR submitted that the assessee's books were never rejected and details of business loss were there before the Assessing Officer as well as before the CIT(A). Hence, the same should have been allowed.

9. The Ld. DR relied upon the Assessment Order and the order of the CIT(A).

10. We have heard both the parties and perused all the relevant material available on record. The CIT(A) has directed the Assessing Officer to compute the taxable income of the assessee but has not directed the business loss quantified by the assessee to be taken into cognizance. The books were never rejected by the Assessing Officer and thus business loss cannot be disallowed without taking cognizance of all the relevant aspect of the matter. Therefore, we direct the Assessing Officer to compute the taxable income thereby granting the business loss after verifying the quantification of the loss claimed by the assessee. Needless to say assessee be given opportunity of hearing by following the principles of natural justice. Hence, ground no.2 is partly allowed for statistical purpose.

11. As regards ground no.3, the same is not pressed and hence dismissed.

12. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 22nd day of July, 2022.

Sd/-
(ANNAPURNA GUPTA)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 22nd day of July, 2022

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Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad

