

## **Gifts received by doctors from Pharma Cos with their logo are not freebies: ITAT**

**Summary – The Delhi ITAT in a recent case of Aishika Pharma (P.) Ltd., (the Assessee) held that Gifts received by doctors from Pharma Cos with their logo are not freebies.**

### **Facts**

- The assessee-company was engaged in the business of trading/marketing of medicines. During the year, the assessee-company claimed expenditure on account of business promotion expenses which included freebies provided to doctors.
- The Assessing Officer was of view that the assessee's claim of deduction of expenditure incurred to provide freebies to medical practitioners was against the Indian Medical Council (Professional Conduct Etiquette and Ethics) Regulations, 2002. The Assessing Officer also referred to CBDT Circular No.5/2012, Dated 01.08.2012 for inadmissibility of expenses incurred in providing freebies to medical practitioners by pharmaceutical and allied Health Sector Industry. Same prohibits Medical Practitioners and their professional associations from taking any gift, travel facility, hospitality, cash or monetary grant from the pharmaceutical and allied Health Sector Industries. Hence, the same was not allowable under section 37(1).
- On appeal, the Commissioner (Appeals) also upheld the order passed by the Assessing Officer.
- On second appeal:

### **Held**

- The ITAT upon examination of the expenses stated that the ledger account shows that business promotion expenses have been incurred mostly on medical camps organized with tea and snacks, ball pens, purchased for distribution to doctors and hospitals, with logo of the assessee company. The assessee company in this way made aware the professionals of the product in which assessee company was giving small gifts having logo and brand name of the assessee company and product name have been mentioned. The expenditure incurred by the assessee company are thus not in the nature of freebies provided to any of the professionals.
- The activity of the assessee company for incurring the sale promotion expenses by distributing ball pens and medical gifts, etc. was to make the persons connected with business of the assessee company, aware of its product and research work carried out by the company for bringing the medicine in the market and its results are based on several efforts made by the assessee company.
- Thus, these expenditure were purely incurred for business promotion of the assessee company.
- Accordingly, the orders of the authorities below is set aside and the entire addition is deleted.