

IN THE INCOME TAX APPELLATE TRIBUNAL  
“E” Bench, Mumbai  
Before Shri B.R. Baskaran (AM)& Ramlal Negi (JM)

I.T.A. No. 7393/Mum/2012  
(Assessment Year 2006-07)

M/s. Shroff Publishers & Distributors Pvt. Ltd. 8, M.K. Amin Marg Patel Building Mumbai-400 001.	Vs.	ACIT 2(3) Room No. 557 5 <sup>th</sup> Floor Aayakar Bhavan M.K. Road Mumbai-400 020.
(Appellant)		(Respondent)

PAN No.AAACS9274P

Assessee by	Shri M.N. Ladiwala
Department by	Shri A.K. Kardam
Date of Hearing	20.10.2016
Date of Pronouncement	31.10.2016

ORDER

Per B.R. Baskaran (AM) :-

The appeal filed by the assessee is directed against the order dated 11.10.2012 passed by Ld CIT(A)-6, Mumbai and it relates to the assessment year 2006-07.

2. We heard the parties and perused the record. The assessee is publisher and distributor of various types of educational books. The Ground No.1, 2 and 4 relate to the disallowance made u/s 40(a)(ia) of the Act in respect of Contract charges, Rent & contract charges and Exhibition expense respectively. The AO disallowed the relevant expenses, since the assessee had paid the TDS amount beyond the due date prescribed under the I T Rules. The Ld CIT(A) confirmed the disallowances, but directed the AO to allow the same in the succeeding year.

3. Before us, the Ld A.R submitted that the assessee has paid the TDS amount before the due date for filing return of income and hence the concerned

expenditure should be allowed as deduction in the current year itself. In respect of exhibition expenses, the Id A.R contended that they are not subject to TDS and hence the disallowance u/s 40(a)(ia) is not called for.

4. We heard Ld D.R and perused the record. We notice that the details of tax deducted at source and the payment thereof are available in respect of expenditure mentioned in Ground No.1 and 2. The said details are not available in respect of exhibition expenses mentioned in Ground No.4. We notice that the contentions of the assessee in respect of Ground No.1 & 2 are supported by the decision rendered by Hon'ble Calcutta High Court in the case of Virgin Creations (ITA No.302 of 2011 dated 23.11.2011). Accordingly we set aside the order passed by the Ld CIT(A) in respect of Ground No.1 & 2 and direct the AO to examine and decide the same afresh by following the decision rendered by Hon'ble Calcutta High Court in the case of Virgin Creations (supra).

5. In respect of exhibition expenses urged in Ground No.4, we notice that the contentions of the assessee that they are not subject to TDS provisions require examination. Accordingly we set aside the order passed by Ld CIT(A) on this issue and restore the same to the file of the AO for examining the same afresh.

6. The issue urged in Ground No.3 relates to the addition made by increasing the value of closing stock. The AO noticed that the assessee has categorised the books into Slow moving items and Obsolete stock. The Slow moving items of books have been valued at a discounted value and obsolete stocks have been valued at NIL value. The AO did not agree with the said method of valuation and accordingly increased the value of stock. The Ld CIT(A) also confirmed the same.

7. The contention of the assessee is that the assessee is following same method of valuation consistently over the years. He submitted that the "books stock" lose their significance and value over the passage of time due to obsolescence and advancements made in the subject. He submitted that the AO is entitled to disturb the consistently followed method of valuation, only if he shows that there was a flaw in the method adopted by the assessee.

8. On the contrary, the Ld D.R strongly supported the order passed by Ld CIT(A). Having heard rival submissions, we are of the view that there is merit in the contentions of the assessee. The method of accounting consistently followed by the assessee should be normally accepted unless it is shown that the method suffers from a serious flaw. Since the AO has not shown any flaw in the method consistently followed by the assessee, we are of the view that there is no justification in disturbing the method consistently followed by the assessee. Accordingly we set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete the addition made by increasing the value of closing stock.

9. The Last issue relates to the addition of Rs.21,33,150/- made u/s 41(1) of the Act on account of cessation of liability. Since the amount due to a party named M/s Springer India Ltd was outstanding for more than three years, the AO assessed the same as income u/s 41(1) of the Act. The Ld CIT(A) also confirmed the same.

10. The Ld A.R submitted that the assessee did not pay the outstanding liability due to a dispute with M/s Springer India Ltd. He submitted that the dispute was settled in the month of October, 2012 and the assessee has offered the same income in the year relevant to AY 2013-14.

11. We have heard Ld D.R on this issue and perused the record. The evidences furnished by the assessee with regard to the suit filed by the parties would show that the dispute was pending on 31.3.2006 and hence we are of the view that there is merit in the contentions of the assessee that the liability was subsisting on 31.3.2006 and did not cease. The assessee has also submitted that the dispute has been settled in October, 2012 and the ceased liability has been offered as income in AY 2013-14. Under these set of facts, there is no justification in holding that the liability has ceased to exist as on 31.3.2006. Accordingly we set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete this addition.

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

Order has been pronounced in the Court on 31.10.2016

Sd/-  
(RAMLAL NEGI)  
JUDICIAL MEMBER

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 31/10/2016

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai