आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, CHENNAI

श्री चंद्र पूजारी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos. 2706/Mds/2016

निर्धारण वर्ष /Assessment Year : 2012-13

The Assistant Commissioner of Income-tax, Circle-1, Tirunelveli. (अपीलार्थी/Appellant)	v.	M/s. Rm.K.V. Associates, 63, North Car Street, Tirunelveli – 6. PAN AABFR2789Q (प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos. 2705/Mds/2016

निर्धारण वर्ष /Assessment Year : 2012-13

The Assistant Commissioner of Income-tax, Circle-1, Tirunelveli. (अपीलार्थी/Appellant)	v.	M/s. Rm.K.V. Silks, 176F, Trivandrum Road, Tirunelveli – 627 003. PAN AABFR1307C (प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos. 2469/Mds/2016

निर्धारण वर्ष /Assessment Year : 2012-13

M/s, Rm.K.V.Silks, (formerly RMK Viswanahapillai & Sons), 176F, Trivandrum Road, Tirunelveli – 627 003. PAN AABFR1307C (अपीलार्थी/Appellant)	v.	The Deputy Commissioner of Income-tax, Central Circle-1(1), Chennai. (प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos. 2704/Mds/2016
निर्धारण वर्ष /Assessment Year : 2012-13

The Deputy Commissioner of Income-tax, Central Circle-1(1), Chennai. (अपीलार्थी/Appellant)	v.	M/s. Rm.K.V. Fabrics, 176F, Trivandrum Road, Tirunelveli – 627 003. PAN AAHFB7067M (प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos. 2471/Mds/2016
निर्धारण वर्ष /Assessment Year : 2012-13

M/s. Rm.K.V. Fabrics, 176F, Trivandrum Road, Tirunelveli – 627 003. PAN AAHFB7067M (अपीलार्थी/Appellant)	v.	The Deputy Commissioner of Income-tax, Corporate Circle-1(1), Chennai. (प्रत्यर्थी/Respondent)

Department by : Shri K. Ravi, JCIT
Assessees by : Shri Saroj Kumar Parida, Advocate

सुनवाई की तारीख/Date of Hearing : 08.06.2017
घोषणा की तारीख/Date of Pronouncement: 26.07.2017

आदेश /O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER

These cross appeals filed by different assessees and by the Revenue are directed against different orders of the CIT(Appeals) for the assessment year 2012-13.

2. The common ground in Revenue's appeal in ITA Nos.2706,

2705, & 2704/Mds/2016 is as under :

> *"2. The CIT(A) had erred in deleting the addition of ₹ 47,86,462/- made under the head of bonus redemption expenses. The CIT(Appeals) failed to see the fact that the liability incurred by the assessee was in the nature of contingent liability and fully dependent upon the uncertain future visit and option of the customers and is not a know liability."*

3. After hearing the parties, we are opinion that similar issue came for consideration before the Tribunal in assessee's own group cases in ITA No.1093/Mds/2016 to 1099/Mds/2016 etc., dated 8.2.2017, wherein the Tribunal vide para 21.1. & 22 held as under:-

> *"21.1 After considering the finding of the AO and the explanation given by the assessee about the deductibility of the provision made towards bonus card, the CIT(Appeals) observed that the criteria for allowing deduction on account of a provision is that the liability to incur the expenditure which is claimed by way of a provision should be certain and secondly quantification of such a liability should be scientific/reasonable. According to the CIT(Appeals), as per the terms of issue of loyality cards, the accumulation of points, the customers were free to encash in subsequent purchases. The assessee is legally bound to provide equivalent of reward points in cash or kind. The loyality points are given in the form of discount in the subsequent purchases. According to the CIT(Appeals), the fact that the customers did not visit the shop for subsequent purchases will not make the claim for such a claim as accrued liability. The liability of the assessee in so far as accumulated points are considered as certain and he*

directed the AO to delete the addition. Against this, the Revenue is in appeal before us.

22. We have heard both the parties and perused the material on record. The ld.A.R strongly placed reliance on the judgements of Supreme Court in the case of ROTORK CONTROLS INDIA P. LTD Vs. CIT reported in [2009] 314 ITR 62 (SC) and in the case of Bharat Earth Movers Vs. CIT in [2000] 245 ITR 428 (SC). In the present case, the assessee being a retailer in textile goods, floated scheme of giving 1% discount, which makes a purchase of ₹100/- and above, he is eligible for discount of 1% in the next purchase. The floated scheme is as follows:-

i) That the minute a customer makes a purchase of ₹ 100 and above is eligible for discount of 1% of the same from the next purchase from the next day.

ii) Such a facility can be availed by the customer in any time in future.

As per the above scheme, the assessee made a claim of ₹1,99,32,784/-. In our opinion, there is an accrual of liability in the accounting year under consideration, though the liability may have to be quantified and discharged in a subsequent assessment year. In other words, incurring of liability is a certain, the same is not a contingent liability. But it is a liability in praesenti, though it may have to be discharged at a future date. The fact of discharged at a later date does not make any difference in coming to the conclusion that the liability as arising in the previous year relevant to assessment year under consideration. The cases relied by the assessee's counsel cited supra, the Supreme Court pointed out that if such a liability can be worked out on a scientific basis, the amount so determined has to be allowed in computing the income. In the present case, the AO has raised the point that the

assessee has received the value of first purchase and discount of 1% would be given only to a subsequent purchase and the liability accrues only on when the customer visits for second time and only at that point of time, when the customers visits the second time and makes a purchase, the discount on second purchase accrues to the assessee. In this contention, we do not find any merit, the assessee has provided the liability as soon as the first customer made first purchase, 1% of the first purchase value and liability to give discount to the customer accrued as soon as the first purchase was made. The only passing of discount to the customers is only at second purchase. The assessee is legally bound to pass the reward or discount to the customer as soon as the first purchase was made and if the customer does not make claim for such a discount, the accrual liability not stopped, the assessee is bound to honour its claim. Being so, the quantification of such liability is already determined. There is no dispute regarding quantification of such liability. In such circumstances, the ratio laid down by Supreme Court in the case of Bharat Earth Movers Vs. CIT (supra) is directly applicable to the facts of the present case. Accordingly, we have no hesitation in confirming the order of the CIT(Appeals) on this issue. Hence, this ground of Revenue stands dismissed."

Therefore, respectfully following the order of the Tribunal in assessee's group cases in ITA Nos.1093 to 1099/Mds/2016, we dismiss this ground of appeal. Accordingly, ITA Nos.2706, 2705 & 2704/Mds/2017 are dismissed.

4. The common ground raised by the assessees in ITA Nos.2471 & 2469/Mds/2016 is as under :

> *"2.1 The CIT(Appeals) erred in confirming the order of the assessing officer in making an addition towards valuation of closing stock."*

5. The facts of the case, which are narrated from I.T.A No.2471/Mds./16 (A.Y 2012-13), are that as seen from the books of account of the assessee, the assessee is found to be valuing the closing stock in respect of certain items at a lesser value on adhoc basis i.e. by reducing the value of the stock by a certain percentage. From A.Y 2006-07 onwards, the assessee has been adopting this method. From a chart of sale of slow moving/non-moving goods filed by the assessee revealed that the method adopted by the assessee is not correct. From the chart filed on 18.02.2015, it is seen that the goods which the assessee has adopted a value of ₹100/- were sold much higher than the revaluation amount. This valuation of closing stock does not give the true and correct status of business and profit. The matter relating to allowability of this method of stock

valuation has not been accepted byt he Department in past and accordingly, this year also addition is made to the extent the closing stock is effect. The assessee filed a chart showing the effect of revaluation of stock on the profit of firm as on 07.01.2012. This chart shows that stock has been under-valued by ₹2,51,214/-. Hence, the Learned Assessing Officer disallowed the sum of ₹2,51,214/-. Aggrieved, the assessee carried the appeal before the ld. Learned Commissioner of Income Tax(A). On appeal, the ld. Learned Commissioner of Income Tax(A) placing earlier order of the Tribunal in ITA Nos.1093 to 1099/Mds/2016 confirmed the order of the Learned Assessing Officer. Against the order of ld. Learned Commissioner of Income Tax(A), the assessee is in appeal before us.

6. We have heard both the parties and perused the material on record. We find that this issue came for consideration before the Tribunal in ITA Nos.1093 to 1099/Mds/2016 etc. dated 08.02.2017, wherein the Tribunal following its earlier order in

assessee's own group in ITA Nos.1769 to 1772/Mds/2014 etc. held as under :

> *"We have heard both the sides and perused the material on record. The assessee has valued the unsold stock by discounting purchase price at fixed percentage considering the age of the stock. However, this method of reduction is not following year by year. For example, as seen from the above table, in the assessment year 2009-10, the assessee adopted the reduction of value of purchase price at 25%, when the stock is one year old. However, for the assessment year 2008-09, it was 50%, for the assessment year 2007-08 again 25% and for the assessment year 2006-07, the same was 50%. There is no explanation for such kind of arbitrary reduction of either 25% or 50%. There is no consistency in the method followed by the assessee for valuing the closing stock. The closing stock is to be valued at market price or cost whichever is less and that should be consistent from year to year. The assessee is not disputed that it has been followed the same method. However, consequent to search action, the assessee wanted to change the method of stock valuation for the first time, which is nothing but an after-thought so as to reduce the income which cannot be permitted*

at this point of time. Accordingly, this ground in all these appeals is rejected."

Accordingly, this ground of assessee stands dismissed.

6. In the result, all the appeals raised by the Revenue as well as by the Assessee are dismissed.

Order pronounced on 26th July, 2017 at Chennai.

Sd/-	Sd/-
(धुव्वुरु आर.एल रेड्डी)	(चंद्र पूजारी)
(Duvvuru RL Reddy)	(Chandra Poojari)
न्यायिक सदस्य/Judicial Member	लेखा सदस्य/Accountant Member

चेन्नई/Chennai,
दिनांक/Dated, the 26th July, 2017.
K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF