

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'डी' अहमदाबाद ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“ D ” BENCH, AHMEDABAD**

सर्वश्री प्रदीप कुमार केडिया, लेखा सदस्य एवं महावीर प्रसाद, न्यायिक सदस्य के समक्ष ।  
**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**  
**And SHRI MAHAVIR PRASAD, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No.1424/Ahd/2015  
(निर्धारण वर्ष / Assessment Year : 2011-12)

M/s. Mahendra Chemicals, B-1, 217 + 218/2, GIDC Estate, Naroda, Ahmedabad – 382 330	<b>बनाम/ Vs.</b>	The JCIT, Range – 3, B-110, 1 <sup>st</sup> Floor, Pratyaksh Kar Bhawan Ambawadi, Ahmedabad – 380 015
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABFM 4908 L</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से/ Appellant by :	Shri S. N. Divatia, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri V. K. Singh, Sr. D.R.

सुनवाई की तारीख / Date of Hearing	23/11/2017
घोषणा की तारीख /Date of Pronouncement	15/01/2018

**आदेश / ORDER**

**PER MAHAVIR PRASAD, JUDICIAL MEMBER :**

This appeal of the assessee relating to assessment year 2011-12 is directed against the order of Learned Commissioner of Income Tax (Appeals)-7, Ahmedabad dated 10.03.2015 which is arising out of order u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as, ' the Act') dated 11.11.2013 framed by JCIT, Range-3, Ahmedabad, vide appeal no.CIT(A)-7/305/14-15.

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2. Assessee has taken following Grounds of appeal:

- 1.1 *The order passed u/s.250 on 10-03-2015 for A.Y. 2011-12 by CIT(A)-7, Abad, upholding partly the addition made u/s. 145A is wholly illegal, unlawful and against the principles of natural justice.*
- 1.2 *The Ld. CIT(A) has grievously erred in law and or on facts in not considering fully and properly the explanations furnished and the evidence produced by the appellant.*
- 2.1 *The Ld. CIT(A) has grievously erred in law and or on facts in upholding that receivables by way of VAT , Excise rebate and Modvat credit were required to be included in the valuation of stock u/s. 145A of the Act and therefore, both opening stock and closing stock were required to be adjusted accordingly.*
- 2.2 *That in the facts and circumstances of the case as well as in law, the ld.CIT(A) has grievously erred in confirming that the provisions of Section 145A were attracted and the receivables by way of VAT, Excise rebate and Modvat credit were required to be included in the valuation of closing stock and opening stock.*
- 3.1 *Without prejudice to above, and in the alternative, in case the provisions of section 145A are held to be attracted, the Id. AO ought to have held that the opening stock as on 1.4.2011 should be increased accordingly.*

3. The relevant facts as culled out from the materials on record are as under:-

The appellant is a partnership firm and engaged in the business of manufacturing and sale of drugs.

2.2 During the course of assessment proceedings, the AO noticed that the appellant had shown in its balance sheet VAT and excise receivable but the same were not included in the value of closing stock as required u/s.145A. The appellant by a detailed submission and other evidences vide reply dated 30/12/2013 explained that in view of the method of accounting followed by it as per accounting standard prescribed by ICAI

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in AS-2, the effect of unavailed receivable by way of VAT, Excise rebate and Modvat credit was revenue neutral. However, AO concluded that the provisions of section 145A mandatory required the assessee to include the said receivable in the valuation of closing stock. And, accordingly addition of Rs.18,98,517/- was made.

2.3 Against the said order appellant preferred first statutory appeal before Id.CIT(A) who has directed AO to make adjustment to the valuation of stock in accordance with the decision of Mahavir Aluminum Corporation (297 ITR 77) i.e. both the opening stock and closing stock.

3. We have gone through the relevant record and impugned order. The appellant is a partnership firm and engaged in the business of manufacturing and sale of drugs. It filed its return of income for AY. 2011-12 declaring total income of Rs.60,81,210/-. AO conclude that the provisions of section 145A mandatory required the assessee to include the said receivable in the valuation of closing stock. And, accordingly addition of Rs.18,98,517/- was made.

4. In appeal, Id.CIT(A) directed to make adjustment in accordance with the decision of Delhi High Court in the case of Mahavir Aluminum Corporation 297 ITR 77(Delhi). As per the AO, assessee is consistently following the exclusive method and his case is tax neutral. We send it back to the file of the Assessing Officer, who will verify the method and

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also to see whether same is tax neutral or not. Thereafter, calculate the tax and accordingly decide the matter as per law.

4. In the result, appeal filed by the assessee is allowed.

<b>This Order pronounced in Open Court on</b>	<b>15/01/2018</b>
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Sd/-  
(प्रदीप कुमार केडिया)  
लेखा सदस्य

**(PRADIP KUMAR KEDIA)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 15/01/2018

*Priti Yadav, Sr.PS*

Sd/-  
(महावीर प्रसाद)  
न्यायिक सदस्य

**( MAHAVIR PRASAD )**  
**JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-7, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad