

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I" MUMBAI**

**BEFORE SHRI C.N. PRASAD (JUDICIAL MEMBER) AND
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 5631/Mum/2016
Assessment Year: 2013-14**

Shri Amar Jewellers 1, Zenda Naka, Bazar Peth, Murbad, Dist. Thane-421402 PAN No. AAOFA7485M	Vs.	ACIT, Circle-2 Kalyan.
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(Appellant)

(Respondent)

Assessee by	: Mr. Ajay R. Singh, AR
Revenue by	: Ms. Pooja Swaroop, DR

Date of Hearing : 17/04/2018
Date of pronouncement: 26/04/2018

ORDER

PER N.K. PRADHAN, AM

This is an appeal filed by the assessee. The relevant assessment year is 2013-14. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-3, Thane [in short 'CIT(A)'] and arises out of the assessment completed u/s 143(3) of the Income Tax Act 1961, (the 'Act').

2. The grounds of appeal filed by the assessee read as under:
 1. The Ld. CIT(A) erred in confirming the addition of Rs.25,18,006/- on account of alleged under valuation of the closing stock of gold and silver without considering the method of valuation followed by the assessee since last so many years.

2. The Ld. CIT(A) erred in confirming the addition of Rs.25,18,006/- by applying average weighted method for valuation for the closing stock without applying the same method in the opening stock.
3. The Ld. CIT(A) erred in upholding the assessment order passed by the AO without adjudicating the ground relating to rejection of the audited books of accounts of the appellant without assigning any cogent reasons.

3. Briefly stated, the facts of the case are that the assessee filed its return of income for the assessment year (AY) 2013-14 on 21.08.2013 declaring total income of Rs.34,14,580/-. It is engaged in the business of sale of gold and silver armaments. It has disclosed gross profit of Rs. 1,09,50,564/- [@ 10.80% on turnover of Rs.10,13,64,064/-]. During the course of assessment proceedings, the assessee filed before the Assessing Officer (AO) the quantitative details of gold and silver. In the audit report, the method of valuation of stock was stated to be cost price or market price whichever is lower. The AO worked out the valuation of closing stock and found that the value of stock of gold and silver is Rs.3,26,37,005/- and Rs.11,41,020/- respectively. In response to a query raised by the AO, the assessee submitted that since this method is being regularly followed, there is no loss to the Revenue, as in the case of undervaluation of stock, the opening stock carried forward to the next financial year (FY) will increase by this amount and ultimately, the profit in FY 2013-14 relevant to the AY 2014-15 would be low. Therefore, the assessee pleaded before the AO that the valuation of stock as shown in the books of accounts be accepted. However, the AO was not convinced with the above explanation of the assessee and made an addition of Rs.25,18,006/- towards under valuation of closing stock (Rs.23,96,203/- for gold and Rs.1,21,803/- for silver).

4. Aggrieved by the order of the AO, the assessee filed an appeal before the Ld. CIT(A). The assessee submitted before him that the AO, being not satisfied with the trading account filed before him, worked out and recast on his own the trading account by adopting average rate for the purpose of closing stock value only without giving the corresponding effect to the opening stock and then made an addition of Rs.25,18,006/-. Thus the assessee argued before the Ld. CIT(A) that the method of valuation adopted for closing stock should have been applied by the AO for the opening stock also. However, the Ld. CIT(A) was not convinced with the above explanation of the assessee and held as under:

“In this case, the appellant has shown closing stock of gold at Rs.3,02,40,302/- on 12,295.260 gms. However, the AO has worked out the average rate of gold at Rs.2654.46 per gm and arrived the valuation at Rs.3,26,37,005/- and accordingly, the difference amount of Rs.23,96,203/- has been added as income of the appellant by the AO. In this regard, the AO has valued the closing stock as per the accounting principles and therefore, the addition made by the AO is confirmed. The appellant has also not disputed the average valuation of closing stock for silver, therefore, the same analogy is applied in the valuation of gold.

As a result, the addition of Rs.25,18,006/- on account of undervaluation of Gold and Silver is confirmed and the appeal of the appellant on this ground is rejected. However, the AO is direct to allow the carry forward of the valuation of closing stock as opening stock in the subsequent year i.e. AY 2014-15.”

5. Before us, the Ld. counsel of the assessee submits that during the course of assessment proceedings, the assessee had filed before the AO the working of valuation of stock with the help of audit report and also certificate issued by the Chartered Accountant. The assessee is

regularly valuing the closing stock at the value of cost or market price whichever is lower. However, the AO was not convinced to the same and valued the closing stock adopting the average rate. In the process the AO made an addition of Rs.25,18,006/- which later on was confirmed by the Ld. CIT(A). The Ld. counsel submits that the method regularly followed by the assessee while valuing closing stock be accepted. Otherwise, corresponding change in opening stock also be made.

Reliance is placed by him on the decision in *CIT v. Mahavir Aluminium Ltd.* (2008) 297 ITR 77 (Del), *Veera Exports v. ACIT* (2017) 82 taxmann.com 448 (Guj).

6. On the other hand, the Ld. DR relies on the order passed by the Ld. CIT(A).

7. We have heard the rival submissions and perused the relevant materials on record. The reasons for our decisions are given below.

A perusal of the tax audit report at Serial No. 12 in Form No. 3CD[(Rule 6G(2))] indicates that the closing stock is valued at cost or market price whichever is lower and there is no deviation from earlier year.

The following two principals have become well-settled: (1) that the assessee is entitled to value the closing stock either at cost price or market price, whichever is lower and (2) that the value of closing stock must be the value of opening stock in the succeeding year.

The above two principles are enunciated in *Chainrup Sampatram v. CIT*, (1953) 24 ITR 481, 486 (SC); *CIT v. British Paints India Ltd.*, (1991) 188 ITR 44, 51 (SC). The theory that underlines the accepted

principle, that the closing stock could be valued at the option of the assessee at cost or market value, whichever was lower, was explained by the Hon'ble Supreme Court in *Chainrup Sampatram* (supra). Their Lordships held at page 485 :

“While anticipated loss is thus taken into account, anticipated profit in the shape of appreciated value of the closing stock is not brought into account, as no prudent trader would care to show increased profit before its actual realisation. This is the theory underlying the rule that the closing stock is to be valued at cost or market price whichever is the lower, and it is now generally accepted as an established rule of commercial practice and accountancy.”

7.1 In the instant case, the assessee has rightly valued the closing stock at cost or market price whichever is lower. It requires no disturbance. Thus we set aside the order of the Ld. CIT(A).

8. In the result, the appeal is allowed.

Order pronounced in the open court on 26/04/2018.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Sd/-
(N.K. PRADHAN)
ACCOUNTANT MEMBER

Mumbai;

Dated: 26/04/2018.

Rajul Sharma, Sr. P.S.

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//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai