

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "D" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA.No.2007/Del./2015
Assessment Year 2010-2011

The ACIT, Circle-15(2), C.R. Building, New Delhi.	VS	M/s. Lakshmi Sugar Mills Co. Ltd., (<i>Formerly known The Mahalakshmi Sugar Mills Co. Ltd.</i>) 704, Siddharth Building, 96, Nehru Place, New Delhi – 110 019. PAN AA ACT0034G
(Appellant)		(Respondent)

For Revenue :	Shri Amit Jain, Sr. D.R.
For Assessee :	Ms. Vasundhara, C.A.

Date of Hearing :	05.06.2018
Date of Pronouncement :	21.06.2018

ORDER

PER BHAVNESH SAINI, J.M.

This Departmental Appeal has been directed against the Order of the Ld. CIT(A)-V, New Delhi, Dated 05.01.2015, for the A.Y. 2010-2011, challenging the deletion of addition of Rs.66,60,305/-.

2. The A.O. made addition on account of excise duty payable on stocks under section 43B as on 31.03.2012. The A.O. had made the addition on the ground that excise duty was not included in the value of closing stock as on 31.03.2012. The assessee argued that addition of excise duty of closing stock will have no affect in P & L A/c of the company as it is also to be included in the debit side of the P & L A/c in opening stock, purchase and sales of the P & L A/c. The Ld. CIT(A) in A.Y. 2005-2006 has deleted the similar addition and the Tribunal dismissed the appeal of the Revenue. The Ld. CIT(A) following the order of the ITAT deleted the addition and allowed the appeal of the assessee.

3. After considering the rival submissions, we do not find any merit in the departmental appeal. The A.O. in the assessment order without bringing any facts on record, made the addition and noted that in A.Y. 2005-2006, similar addition have been deleted by the ITAT. However, the Departmental Appeal is pending before Hon'ble Delhi High Court. Merely

because the Departmental Appeal was pending before Hon'ble Delhi High Court is no ground to make addition against the assessee. The authorities below are bound to follow the Order of ITAT being the second appellate authority. In the absence of any material on record against the assessee, we do not find any justification to interfere with the order of the Ld. CIT(A) in deleting the addition. The Departmental appeal stands dismissed.

4. In the result, appeal of the Department is dismissed.

Order pronounced in the open Court.

Sd/-
(L.P. SAHU)

ACCOUNTANT MEMBER
Delhi, Dated 21st June, 2018

VBP/-
Copy to

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "D" Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches : Delhi.