

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 5367/Del/2015
(Assessment Year: 2012-13)

ACIT, Circle-22(2), New Delhi	Vs.	S. Chand & Co. Ltd, 7361, Ravindra Mansion, Ram Nagar, Delhi PAN: AAACS1149M
(Appellant)		(Respondent)

Revenue by :	Shri Ved Prakash Mishra, Sr. DR
Assessee by:	Ms. Sweety Kothari, CA
Date of Hearing	16/10/2018
Date of pronouncement	08/01/2019

O R D E R

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the Id ACIT, Circle-22(2), New Delhi against the order of the Pr. CIT-8, New Delhi dated 15.06.2015. The revenue has raised the following grounds of appeal:-
"1. That on facts and circumstances of the case the Id CIT(A) has erred in law in deleting the additions of Rs. 2,44,96,881/- made by the AO on account of valuation of closing stock."
2. The brief facts shows that the assessee company is engaged in the business of publishing and sale of books and compact disks. It has also earned profit on sale of investments and interests of bank deposits. It filed its return of income on 28.09.2012 declaring income of Rs. 138419860/-. The assessment u/s 143(3) of the Act was made on 20.03.2015, where the addition of Rs. 24496881/- was made by the Id AO on account of difference in valuation of closing stock and total income was assessed at Rs. 162916741/-. The main reason for the addition is with respect to the valuation of closing stock which has been dealt with in the order of the Id AO. The Id AO made the addition vide para No. 3 of his order as under:-

“Valuation of Closing Stock:

The assessee company in its return of income has declared closing stock of Rs. 23,01866/-. The assessee was asked to provide details of closing stock and its valuation vide query no 34 of the questionnaire issued with notice u/s 142(1) dated 28.10.2013. Further, vide order sheet entry dated 11/03/2015 the assessee company was required to explain the basis of valuation of stock. The relevant entry is reproduced below:

“To explain the basis of valuation of stock. Produce evidence in support. Furnish complete working with purchases, consumption and closing stock of each item.”

3.1 The AR of the assessee vide letter dated 18/03/2015 submitted details regarding the value of closing stock of books as per different methods adopted by the various authorities in the preceding assessment years. The reply of the assessee is reproduced below:

“.....

- As regards the valuation of stock of books as on 31/3/12, it is submitted that the value of stock of books declared by the assessee is Rs. 31,63,91,863/- and the printed price of the same is Rs. 1,22,48,44,031/-. Charts showing the details of valuation of books along with printed price of each book are enclosed. The assessee had some stock lying at its godowns. Some stock was in Transit or at Rudrapur in the process of being transported. The assessee purchased the business of M/s S.Chand & Co. Firm as on 31/3/12 and therefore the stock of the said firm was also received as on 31/3/12. The stock of books in transit and of the said firm was valued at cost by the assessee. The assessee categorises its own manufactured stock as fresh, slow moving and damaged stock. The stock is valued at certain percentage of the printed price on the basis of category of stock. The damaged stock is valued @ 0%, the slow moving stock @ 3% (i.e. 10% of the fresh stock and the fresh stock @ 30% of the printed price. The cost of the books manufactured by the assessee comes to 30% of the printed price which has also been accepted by the department in the earlier years. The books purchased by the assessee are valued at cost which is 30% to 50% of the printed price depending upon the cost of the book. The slow moving trading books are valued at 5% .*
- The assessing officer assessed the value of stock of books on different criterion in the preceding assessment years from the AY 2004-05 to AY 2011-12. The CIT(A) also adopted two different criterion for valuing the stock of books in two different years i.e AY 2004-05 and 2005-06. Working of closing stock of*

books as per different criterion adopted by the CIT(A) and the assessing officer is enclosed.

- In AY 2004-05, the total addition sustained by the CIT(A) was approximate 2% of the printed price of the books stock as on 31/3/2004. The assessing officer therefore made an addition of 2% of the printed price of books to the closing stock as on 31/3/2005, 31/3/2007, 31/3/2008, 31/3/09, 31/3/10 and 31/03/11 and increased the value of the closing stock by the said amount. Following the said method of valuation, the value of closing stock would be Rs. 34,08,88,743/- as on 31/3/2012 after increasing the value by Rs. 2,44,96,881/- being 2% of Rs. 1,22,48,44,031/- i.e. the printed price of the stock of books. (Method C)*
- In AY 2006-07, the assessing officer increased the cost of books @ 31% of the printed price without giving any reason for rejecting the accepted cost @ 30% of the printed price. The said cost was applied to the chart prepared on the lines of the CIT(A) working regarding the valuation of closing stock in AY 2006-07. The assessee prepared the chart on the lines of CIT(A) working and applied the rate of 31% to the cost and the value of closing stock as per said computation comes to Rs. 31,42,27,604/- as per enclosed chart. (Method B)*
- The CIT(A) valued the closing stock on the basis of number of books sold in the subsequent year. The CIT(A) worked out a percentage based on the number of books sold during the subsequent year and total number of books in the said titles of books which were sold during the year. The said percentage was applied to the cost of the books which was 30% of the printed price. However, wherever, the said percentage was more than 30%, rate of 100% was applied to the cost of the books. Zero value was taken for those titles of books from which no book was sold during the year. If the said valuation method is applied in the year under consideration, then the value of stock comes to Rs. 30,64,27,568/- as per chart enclosed. (Method A)*
- The assessee has been consistently following a scientific method of valuation since its inception which is based on its experience and number of books sold during the year under consideration. However, the same was disturbed by the revenue authorities in the earlier years only for the sake of making addition as they also adopted different method of valuation in different years that too based on the categorization given by the assessee.*
- It is stated that increasing the value of closing stock in one year by changing the accepted method of accounting and then substituting its value as opening stock of next year leads to a*

revenue neutral exercise and the Revenue get no advantage out of the same. The Supreme Court in the undernoted authorities has held that if the method of accounting adopted by the assessee has been accepted by the department over several years, then Department can insist on substitution of the existing method only in those cases where Department records a finding that the method adopted by the assessee results in distortion of profits. It was further held that the entire exercise arising out of the change in method from completed contract method to deferred revenue expenditure was revenue neutral, the complete contract method was not required to be substituted by the percentage of completion method.

- *CIT Vs Bilahari Investment (P) Ltd. (2008) 299 ITR 1 (SC)*
- *CIT Vs Realest Builders & Services Ltd. (2008) 216 CTR (SC) 34*
- *It is further submitted that the Hon 'ble 1TA T has deleted the addition made by the assessing officer on account of valuation of stock vide its order for the AYs 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10 and 2010-11. The addition made in the A Y 2011-12 has been deleted by the CIT(A)-X, New Delhi. Photocopies of all the said orders have already been placed on record in the earlier submissions.*
- *In view of the above submissions and view taken by the Hon 'ble JTAT, the value of the closing stock of books should be accepted and should not be disturbed as no discrepancy has been pointed out in the valuation of stock valued by the assessee on the basis of the stock registers produced for your verification.*
- *It is further stated that the opening value of stock of books as on 01/04/2011 should be substituted by the assessed value of closing stock as on 31/3/2011 as the value of opening stock for a year cannot be different from the closing stock of the immediately preceding year.*
- *Presuming without admitting, if any addition is made in the valuation of stock, then the value of opening stock as on 1/4/2012 should be replaced accordingly and the profit for the FY 2012-13 should be reduced by the said amount.*
- *Stock Register showing the valuation of books is produced for your kind verification. Details of consumption of paper for the year ended 31/3/12 are produced for your verification. ”*

3.2 To sum up, the assessee company's submission is as under;

- a) *In the AY 2005-06, the addition in valuation of stock was made on estimated basis @ 2% of printed price of the books*

based on the addition sustained by the learned CIT(A) in the AY 2004-05.

- b) The cost of books @ 30% of the printed price of the books was accepted in the earlier years till 2005-06 and even in AY 2007-08, 2008-09, 2009-10 and 2010-11. The Assessing Officer did not mention any reason to disturb the same and considered the cost of the books @ 31% instead of 30% in the AY 2006-07*
- c) The CIT(A) valued the stock on the basis of sales made in the subsequent year which is not a feasible method of valuation. As per the method adopted by the CIT(A), the value of closing stock as on 31/03/11 will have to be computed on the basis of sale of books made till 31/03/12 and that how could an assessee come to know the number of sale of book till 31/03/12 as on 31/03/11.*
- d) That the assessee was categorizing the books in various categories on the basis of sales made during the year which is a scientific approach and accepted by the department since last more than 50 years and the same should not be disturbed as it will be a revenue neutral exercise.*
- (e) The Hon'ble ITAT has deleted the addition made by the assessing officer in the AYs 2004-05 to 2009-10 by holding that the method of accounting regularly followed by the assessee could not be disturbed.*

In the AY 2004-05, the Assessing Officer considered the value of slow moving and obsolete stock @ 25% of the total stock and valued the stock accordingly but the cost of stock was accepted @ 30% of the printing price. In AY 2005-06 to 2011-12 (except AY 2006-07), the categorization of books as submitted by the assessee was accepted. However, the addition was made @ 2% of the printed price of books on estimated basis in the AY 2005-06 to 2011-12 exempt 2006-07. In the Assessment Year 2006-07, the addition was made by the adopting the cost of the books @ 31% of the printed price. Hence, keeping in view the past history and a possibility of sales of some stock being written off during the year in the subsequent years, I hereby make an addition of Rs. 2,44,96,881/- being 2% of Rs. 1,22,48,44,031/- being the printed price of the books as on 31/03/2012.”

3. The assessee aggrieved with the order of the Id AO preferred an appeal before the Id CIT(A). The Id CIT(A) deleted the addition vide para No. 3 of his order as under:-

“3. I have considered the assessment order, written submission filed by the Ld. AR of the appellant and also perused the order passed by the Hon'ble ITAT for earlier years. I agree with the arguments of the Ld. AR of the appellant that increasing the value of

closing stock in one year by changing the accepted method of accounting and then substituting its value as opening stock of next years leads to a revenue neutral exercise and the revenue gets no advantage out of the same. Ld. Assessing officer without rejecting the books of accounts, enhance the value of closing stock of the appellant. Closing stock should be valued as per the accounting standard. Ld. Assessing officer adopted the addition made by the Assessing officer for the AY 2005-06. Since the addition made on the valuation of the closing stock for the AY 2005-06 is deleted by hon'ble ITAT, the valuation adopted by the Ld. Assessing officer on the basis of AY 2005-06 is not valid. Respectfully following the judgments of Hon'ble ITAT in the case of appellant, I hold that Ld. Assessing officer has wrongly disturbed the valuation of closing stock disclosed by the appellant. Hence, the addition made by the ld Assessing Officer is hereby deleted.”

4. The Id DR in appeal of the revenue supported the order of the Id AO.
5. The Id AR submitted that issue is squarely covered in favour of the assessee in assessee's own case by the decision of the coordinate bench for Assessment Year 2010-11 and 2011-12. He submitted the copies of the order and relied upon them.
6. We have carefully considered the rival contentions and also perused the orders of the lower authorities. The Id AO has made the addition of Rs. 24496881/- to the closing stock being 2% of the Rs. 1224844031/- being the printed price of the books as on 31.03.2012. The Id AO made the addition based on the assessment history of the assessee for earlier years. In earlier years the similar additions dealt with by the coordinate bench wherein, the addition was deleted following the order of the coordinate bench in assessee's own case for Assessment Year 2004-05 and 2005-06. For Assessment Year 2010-11 in ITA NO. 5570/Del/2013 dated 26.04.2017 for Assessment Year 2011-12 in ITA No. 1870/Del/2015 dated 27.06.2018, identical issue has been dealt and decided in favour of the assessee. In view of the above facts, respectfully following the decision of the coordinate bench in assessee's own case for earlier years, we also confirm the action of the Id CIT(A) deleting addition of Rs. 24496881/- on account of valuation of closing

stock. Accordingly, ground No. 1 of the appeal of the revenue is dismissed.

7. In the result appeal of the revenue of the Id AO is dismissed.

Order pronounced in the open court on 08/01/2019.

-Sd/-

(BHAVNESH SAINI)
JUDICIAL MEMBER

-Sd/-

(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated:08/01/2019

A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi