

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 4689/DEL/2016  
[A.Y 2012-13]

The Dy. C.I.T  
Circle - 1(1)  
New Delhi

Vs.

M/s A.V. Valves Pvt Ltd  
187, DDA Cycle Market  
Jhandewalan Extn  
Karol Bagh, New Delhi

PAN: AABCA 5110 D

(Applicant)

(Respondent)

Assessee By : Shri Rakesh Gupta, Adv  
Shri Somil Agarwal, Adv

Department By : Shri Gurmeet Singh, Sr. DR

Date of Hearing : 03.09.2019  
Date of Pronouncement : 04.09.2019

**ORDER**

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the Revenue is preferred against the order of the Commissioner of Income Tax [Appeals] - 1, New Delhi dated 22.06.2016 pertaining to assessment year 2012-13.

2. The solitary grievance of the Revenue is that the CIT(A) erred in deleting the addition of Rs. 3,67,85,716/- made on account of disallowance of claim under “Rejection & Demurrage” account.

3. The underlying facts in the issue are that the assessee claimed an expense under the head “Rejection & Demurrage” amounting to Rs. 3,67,85,716/- in Schedule 19 of Financial Statement under the head “Other Expenses”. The assessee was asked to explain and justify the claim of expenditure. The assessee replied as under:

*“In justification of our claiming rejection in Profit and Loss account for the Year Ending 31.03.2012 was due to fact that as the sales was effected in the Year 31 03 2012 and site rejection of the consignment was informed to us in May & June 2012 It was not accountable to take back the sale and stock in that Financial Year 31 03 2012, as all the statutory returns were already submitted and Tax paid. Hence we had to park the amount of Sale in the Profit and Loss account as rejection under warranty winch is backed by our Bank Guarantee valid till year 2015 and 2014 respectively.*

*As soon as we would rectify the material to the satisfaction of clients, and get the payment, we will adjust the same under warranty clause and would take the proceeds in our Profit and loss account under the head of other non operating Income*

To back our claim as stated above, we have in the financial year 2013-14 taken Rs. 99,78,301/- under the non operating Income as shown in the balance sheet.

Hence Sir, as and when we will repair and rectify the material and get funds, we will take the same in account as above This is for your kind information and perusal.

Since the supplies are extensively spread at various sites across the remote areas in the Country it takes enough time to rectify the same"

4. The reply of the assessee did not find any favour with the Assessing Officer who was of the opinion that the rejection of consignment has not been made out to be an outright rejection. Rather, it is covered by a warranty clause wherein the goods supplied needed repair and service for use by the buyer. The Assessing Officer further observed that the claim of demurrage as debited in the profit and loss account is without justification and not in accordance with the method of accounting followed by the assessee. Accordingly, the Assessing Officer made the addition of Rs. 3,67,85,716/-.

5. Before the CIT(A), the assessee claimed that the assessee supplied its products to big companies like BHEL, M/s Anrak Aluminium Ltd, M/s SMS India Pvt Ltd, M/s MCCAPTA, Calcutta and some of these

customers rejected the material and aggregate of such rejection was to the tune of Rs. 3,67,85,715/-. It was further strongly contended before the CIT(A) that detailed explanation was filed by the assessee during the course of assessment order to the effect that rejections done by such prestigious and prominent customers have to be taken very seriously and these stocks are rejected out rightly and languish at their end. It was further explained that the assessee carried out rectifications later on, and after rectifications, these sales were accepted by these customers in the respective years. It was brought to the notice of the CIT(A) that after rectification, there is no loss to the revenue.

6. After considering the facts and submissions, Id. CIT(A) observed as under:-

"I have examined the details placed on record which include the ledger accounts of these parties, where these rejections were credited in their accounts, and subsequent ledger accounts of the subsequent years when these parties were debited again against the rejected material after rectifications made in the defective material. I have also verified the subsequent years balance sheets of the appellant assessee, where these amount received against



SUMMARY OF NON-OPERATIONAL INCOME OFFERED FOR  
TAXATION IN FOLLOWING ASSESSMENT YEARS:

1	AY. 2014-15	9978301
2	AY. 2015-16	16124685
3	AY 2016-17	10682729
		36785715

I have verified the Profit and Loss accounts for these subsequent years and find that except an amount of Rs. 7,59,482/- the entire balance amount of Rs.3,60,26,233/- (Rs. 3,67,85,715/- - Rs. 7,59,482/-) has been shown by the assessee as its income in the Asstt. Years 2014-15, 2015-16 an AY 2016-17. Thus, there is no loss to the Revenue as there is no change in slab rates as well being it a case of a company. The appellant had relied upon the judgment Hon'ble Delhi High Court in the case of CIT vs Vishnu Industrial Gases Pvt. Ltd. ITA 229/1988 dated 06.05.2008 and CIT vs Dinesh Kumar Goel 331 ITR 10 (Del.) wherein it is held that it does not matter in which year the income is accounted for, the tax rate is same".

7. After considering the facts in the light of the decisions of the Hon'ble Delhi High Court in the case of Vishnu Industrial Gases [P] Ltd in 229 ITR 1988 dated 6.5.2008 and the case of Dinesh Kumar Goel 331

ITR 10, the CIT(A) deleted the addition and concluded that the assessee has shown the receipts received from these parties in the subsequent year.

8 Before us, the ld. DR could not point out any factual error in the findings of the CIT(A).

9. The ld. AR, on the other hand, relied upon the findings of the CIT(A).

10. We have heard the rival submissions and have given a thoughtful consideration to the orders of the authorities below. The chart exhibited elsewhere clearly depicts that the assessee has rectified the entry in the subsequent years and has shown the income as mentioned in the chart elsewhere. In the light of the decision of the Hon'ble High Court of Delhi [supra] we do not find any error or infirmity in the findings of the CIT(A). Accordingly, the ground raised by the Revenue is dismissed.

12. In the result, the appeal of the Revenue in ITA No. 4689/DEL/2016 stands dismissed.

**The order is pronounced in the open court on 04.09.2019.**

**Sd/-**

**[SUCHITRA KAMBLE]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 04<sup>th</sup> September, 2019

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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