

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.2919 & 2921/PUN/2016
निर्धारण वर्ष / Assessment Years : 2007-08 & 2010-11

Racold Thermo Private Limited (Formerly known as Racold Thermo Limited), Gat No.265/374-376, Kharabwadi, Chakan-Talegaon Road, Tal. Khed, Chakan, Pune – 410 501 PAN : AAECM0766G	Vs.	ITO (Judicial) (HQ), Pune
Appellant		Respondent

Assessee by
Revenue by

Shri Ketan Ved
Shri Houshang Boman Irani

Date of hearing 11-12-2019
Date of pronouncement 12-12-2019

आदेश / ORDER

PER R.S.SYAL, VP :

These two appeals by the assessee relate to the assessment years 2007-08 & 2010-11. Since some common issues are raised in these appeals, we are, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

A.Y. 2007-08 :

2. The first issue raised in this appeal is against the confirmation of disallowance of Rs.25,02,000/- for obsolescence of inventories.

3. Briefly stated, the facts of the case, as noted in the assessment order, are that the assessee made a provision for obsolescence of inventory amounting to Rs.25.02 lakh. The Assessing Officer (AO) required the assessee to furnish the details of inventory valuation. The assessee furnished the inventory valuation policy, which has been reproduced on page 3 onwards of the assessment order. The AO made addition of Rs.25.02 lakh on the ground that the assessee did not have any documentation to suggest that the said items of inventory had market value at Nil/half of cost price. The Id. CIT(A) affirmed the action of the AO, against which the assessee has come up in appeal before the Tribunal.

4. Having heard both the sides and perused the relevant material on record, it is observed from the Table on page 7 of the impugned order that the assessee did not create any provision for obsolescence for the year under consideration, which is captured as under: -

Particulars	F.Y.05-06	F.Y.06-07	F.Y.07-08	F.Y.08-09	F.Y.09-10
Opening provision	5816	5816	2502	2985	16540
Add :Additional provision	0	0	483	13555	0
Less : Reversal of provision	0	3314	0	0	7728
Closing Balance	5816	2502	2985	16540	8812

5. It can be seen from the above Table that the opening balance of the provision for the year under consideration was at Rs.58.16 lakh. The assessee did not make any provision for the year. Earlier provision of Rs.33.14 lakh was reversed on account of incurring of expenses, thereby leaving the closing balance of provision at Rs.25.02 lakh. It is this amount which has been added by the authorities below. We have also gone through the Profit and loss account and balance sheet of the assessee, which fortify the contents of the above Table as are relevant for the year under consideration. In order to make any disallowance, it is elementary that there should be a claim for deduction of such an amount. Since no actual provision was created during the year by way of debit to the Profit and loss account, meaning thereby, no deduction was claimed, there could have been no reason to make any disallowance. This ground is, therefore, allowed.

6. Ground No.2 of the assessee's appeal is against the confirmation of addition of Rs.89,66,000/- on account of change in method of accounting for valuation of inventory.

7. The facts apropos this ground are that the assessee reduced its profit by Rs.89.66 lakh arising on account of change in the method

of valuation of stock from the First in First Out (FIFO) method to Weighted Average method. The AO did not approve the change and hence made addition for the said sum, which came to be countenanced in the first appeal.

8. Having heard the rival submissions and perused the relevant material on record, it is observed that the assessee admittedly changed its method of valuation of inventories from FIFO to Weighted Average method. There can be no bar on the assessee in changing the method of valuation provided such change is to a recognized method and the same is consistently followed in the succeeding years as well. Undoubtedly, weighted average is a recognized method for valuation. Though the ld. AR submitted that the changed method was consistently followed, he could not place on record any material to indicate so. In such circumstances, we set-aside the impugned and remit the matter to the file of the AO for allowing the deduction of Rs.89.66 lakh if the changed method of valuation has been consistently followed by the assessee in the succeeding years. In the otherwise scenario, the AO will be free to deal with the situation as per law.

9. The last ground of the assessee's appeal is against the confirmation of addition of Rs.1.50 crore on account of Provision of warranty.

10. The facts concerning this ground are that the AO observed that the assessee made a provision for warranty of Rs.1.50 crore for the assessment year under consideration. On being called upon to substantiate the same, the assessee furnished a tabulation which has been incorporated on page 15 of the assessment order, showing that the additional provision was made for Rs.1.94 crore and the actual warranty expenses were also at the same level, namely, Rs.1.94 crore. The assessee demonstrated that Rs.1.50 crore was the opening balance of provision of warranty, which remained at the same level at the end of the year. The AO made disallowance of Rs.1.50 crore, which came to be echoed in the first appeal.

11. We have heard the rival submissions and perused the relevant material on record. The tabulation from page 15 of the assessment order is reproduced as under :

(All amounts in thousands of rupees)

Particulars	A.Y.2008-09	A.Y.2007-08	A.Y. 2006-07	A.Y. 2005-06
Gross sales/turnover during the year	13,51,594	12,66,246	12,07,607	8,67,971
Carrying amount of provision as on 1st April	15,000	15,000	7,068	7,068

Additional provision of warranty made during the year	23,171	19,465	23,943	Nil
Actual warranty expenses	23171	19,465	16,011	Nil
Carrying amount of provision as on 31 st March	15,000	15,000	15,000	7,068

12. It can be seen from the above tabulation that for the assessment year under consideration there was opening balance of Rs.1.50 crore. The assessee made additional provision of Rs.1.94 crore; incurred actual warranty expenses of Rs.1.94 crore and carried forward the provision at Rs.1.50 crore. Thus, it is evident that the amount of provision for the year is exactly equal to the amount of warranty expenses incurred during the year. Had it been a case of direct debit of expenses on account of repairs to the Profit and loss account, there would not have been any disallowance. It is only because of the assessee creating provision and spending equal amount that the AO has gone with the making of addition and that too, for the closing balance of the provision, which has no relation with the creation of provision for the year under consideration. As actual expenditure of warranty is equal to the amount of provision, we hold that no disallowance can be made or sustained. This ground is, ergo, allowed.

13. In the result, the appeal is partly allowed.

A.Y. 2010-11 :

14. The only issue raised in this appeal is against the confirmation of addition of Rs.55,66,289/- on account of disallowance of Provision for obsolescence of inventory.

15. Briefly stated, the facts of the case are that the assessee showed opening balance of Provision for obsolescence of inventory at Rs.1.22 crore. During the year under consideration, such provision was utilized to the tune of Rs.62.22 lakh and rest of the amount of Rs.55.66 lakh was carried forward to the next year. The AO made the addition on account of closing balance of provision at Rs.55.66 lakh, which came to be affirmed in the first appeal.

16. Having heard the rival submissions and perused the relevant material on record, it is seen that for the year under consideration there was no creation of provision for obsolescence of inventory. Some part of the opening balance of the provision has been reversed because of incurring of actual expenses. The authorities below have made and confirmed the addition in respect of the closing balance of the provision, which is untenable. Since no provision for obsolescence of inventory was claimed as deduction by way of debit

to the Profit and loss account for the year under consideration, we hold that there can be no question of making any disallowance on this count. We, therefore, order to delete the addition.

17. In the result, the appeal is allowed.

Order pronounced in the Open Court on 12th December, 2019.

Sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 12th December, 2019
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-6, Pune
4. The Pr.CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे
“बी” / DR ‘B’, ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	11-12-2019	Sr.PS
2.	Draft placed before author	11-12-2019	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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