

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ "ए" अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER

ITA No. 1102/Ahd/2012
Assessment Year : 2007-2008

M/s ORG Informatics Ltd, Abhishek Complex, 3 rd Floor, Akhsar Chowk, Old Padra Road, Baroda-390 020 [PAN : AACCS 9395 K]	Vs	Additional Commissioner of Income-tax, Range-4, Baroda
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		None
Revenue by :		Shri Deelip Kumar, Sr DR

सुनवाई की तारीख/Date of Hearing : 17/02/2020
घोषणा की तारीख /Date of Pronouncement: 19/02/2020

आदेश/O R D E R

PER RAJPAL YADAV, VICE PRESIDENT :-

The assessee is in appeal before the Tribunal against the order of the learned Commissioner of Income-tax (Appeals)-III, Baroda dated 29.02.2012 passed for Assessment Year 2007-08.

2. The assessee has taken three grounds of appeal, out of which ground No. 3 is a general ground which does not call for recording of any specific findings; hence rejected.

3. In ground No.1 the assessee has pleaded as under:-

"The learned Assessing Officer has disallowed and the appellate Commissioner of Income Tax has confirmed the disallowance of Rs. 1 Crore being obsolete inventory written off on the ground that no justification was given for inventories becoming obsolete and also believes that the same should have been written off gradually.

Your appellant submits that detailed justification was provided that the "Super Max" computers had become out dated and that the appellant company regularly reviews the inventories at the balance sheet date.

Moreover, the inventories are valued according to AS2. Hence gradual writing off would be against the generally accepted accounting principles. Hence this disallowance should be deleted."

4. The brief facts of the case are that the assessee has filed its return of income electronically on 15.11.2007 declaring total income at Rs.10,55,93,930/- and value of fringe benefits at Rs. 33,71,798/-. Subsequently, it has revised its return of income showing returned income at Rs.8,96,72,570/-. The case of the assessee was selected for scrutiny assessment and notice under Section 143(2) of the Income-tax Act was issued and served upon the assessee. On scrutiny of the assessment, it revealed to the Assessing Officer that the assessee has written off the inventory amounting to Rs.1 Crore. In response to the query of the Assessing Officer, it was contended by the assessee that it is engaged in the business of marketing of computers, computer peripherals, maintenance of computers etc. It had developed, some twenty five years back, Super Max Computers to cater to the requirements of high speed and bulk data processing. These computers were sold to big corporate entities and, as per sale agreement, the assessee was obliged to maintain the computers on periodical basis as and when required. However, with the advent of ultra modern computers and computer systems developed by the foreign manufacturers, the Super Max Computers lost their presence in the market. In view of the above position, there was pile up of many inventory items of hardware and consumables which were not moving and, therefore, become non-usable. Assessee was consistently following accounting method of recognizing and writing off obsolete items of inventories. During the year under consideration also, the assessee had identified and written off such obsolete inventories as per accounting method followed by it. Against the contention of the learned Assessing Officer that there should have been gradual write off, assessee has submitted that it has consistently followed

the accounting principle laid down by AS2. Therefore, the value of inventory is recognized at lower of cost or net realizable value. Thus the practice of writing down inventories below cost to NRV is consistent with the view that the assets should not be carried in excess of amounts expected to be realized from their sale or use. Further, the claim of the assessee is that the assessee makes assessment of the stock available at each balance sheet date and an appropriate write off is affected in the accounts; therefore, there cannot be any gradual obsolescence/write off of the inventory.

5. Learned Assessing Officer was not satisfied with the explanation of the assessee and disallowed the claim of the assessee. On appeal, learned CIT(A) confirmed the disallowance by following the order of the ITAT in assessee's own case for Assessment Year 2005-06 for similar issue. The findings recorded by the learned CIT(A) read as under:-

"4.3 The same issue was involved in the case of the appellant for the A.Y. 2005-06. In that year also, the appellant had claimed similar type of deduction. The matter travelled upto ITAT. ITAT 'D' Bench, Ahmedabad in their order in ITA No.4150/Ahd/2008 dated 17.06.2011 have held as follows:

'We have considered the rival submissions and material on record and do not find any justification to interfere with the orders of the authorities below. The AO specifically noted that the assessee has not furnished any basis for under-valuation of the stock on account of writing off of the obsolete stock. No basis or scientific basis is filed. The explanation of the assessee is not supported by any evidence or material. The learned CIT(A) further noted that the claim of the assessee for slow moving items or obsolete stock is not supported by any technical report. It was also noted that majority of the items have been issued which is prior to the accounting year. Therefore, same cannot be treated as slow moving or obsolete stock. On consideration of the above facts and details pointed out by the learned Counsel for the assessee we find no infirmity in the finding of the learned CIT(A) because majority of the items were issued prior to the starting of the financial year and further no evidence has been furnished in support of the claim of the assessee. In the absence of any material or evidence to support the claim of the assessee, we do not find any justification to interfere with the orders of the authorities below. In absence of

evidence case law would not support claim of the assessee. We confirm their findings and dismiss this ground of appeal of the assessee.'

4.3.1 In the course of assessment proceedings for A.Y. 2007-08 also, the appellant has not submitted the complete details of inventory written off as noted by the A.O. in his assessment order on the pretext that number of items are numerous and voluminous. Moreover, no technical report for this purpose has been submitted either during the course of assessment proceedings or the appellate proceedings. During the course of appellate proceedings, the AR has submitted copy of the Audited accounts and stated that as per clause 8 of the notes to accounts, it has been mentioned that during year the management has identified slow and non moving items in inventory amounting to TRs 35,560/- out of which inventories amounting to TRs 10,000/- were considered as non moving and have been written off. But besides this, no other technical report or working for determining these items as non moving was furnished. Nothing has been furnished to show the cost at which they were being reflected in the balance sheet in the earlier year. The fact that a round figure of Rs. 1 crore has been claimed as deduction on this account also indicate absence of such working. Hence, on the basis of these discussions and relying upon the decisions of Hon'ble ITAT in appellant's own case for A.Y. 2005-06, the A.O.'s action of disallowing this deduction is upheld and this ground of appeal is dismissed."

6. In response to the notice of hearing, M/s. Deloitte Haskins & Sells LLP earlier used to appear on behalf of the assessee; however, vide letter dated 30th September 2019, Shri Sanjay R. Shah, Authorized Representative on behalf of M/s. Deloitte Haskins & Sells LLP submitted that insolvency proceedings have been taken up against the assessee and Shri Kiran Chinubhai Shah has been appointed as Interim Resolution Professional by the NCLT. He placed on record copy of the order the NCLT dated 27.11.2018. He requested that the notice be issued to Shri Kiran Chinubhai Shah and he did not wish to argue the appeal on behalf of the assessee. Fresh notices were sent to the assessee through the DR office. The Bench Clerk has contacted Shri Kiran Chinubhai Shah on his mobile phone no. 9825506911 and requested him for supplying his postal address so that he can issue fresh notice. Shri Kiran Chinubhai Shah did not wish to appear and did not supply the address to the Registry staff. Under these

compelling circumstances, we proceed to take *ex-parte* proceedings against the assessee. Though in the above situation, we could dismiss the appeal for want of prosecution also, but since it is an old matter we deem it appropriate to decide it on merits after hearing the Revenue. In this way, with the assistance of learned Departmental Representative, we have gone through the record carefully.

7. A perusal of the record would indicate that basically the assessee has written off its inventory on the ground that such inventory has become obsolete; but when the Assessing officer has enquired to submit the supporting details, what is the nature of inventory, what is the shelf-life, how it became obsolete, then nothing was produced. In other words, the assessee should produce the details of inventory, year of manufacturing/purchase, how it is to be used and how it can be construed that it has no value. Since the assessee failed to give any such details; therefore, the Assessing Officer has disallowed it. There is no disparity on facts from Assessment Year 2005-06 to this year when similar disallowance was upheld upto the Tribunal in the findings extracted supra. Therefore, we do not find any merits in this ground of appeal; it is rejected.

8. In ground no. 2, the assessee has pleaded as under:-

"The learned Assessing Officer has disallowed Rs.22848056/- on account of prior period expense. Your appellant submits that with regard to Rs.10635668/- relating to bank charges and Rs.7895142/- relating to purchases, since the differences in bank charges amounting to Rs.10635668/- were noticed in AY 2008-09 and debited as prior period expense and pertaining to AY 2007-08, the same should be allowed in AY 2007-08. Moreover, in case of purchases amounting to Rs.7895142/- since the income from the said purchases was booked in AY 2007-08 and the bills were issued in AY 2007-08 and received in AY 2008-09 and therefore accounted in AY 2008-09 as prior period, the same should be allowable for AY 2007-08."

9. With the assistance of learned Departmental Representative, we have gone through the record carefully. On this issue, we straightway take note of the findings of the learned CIT(A) which read as under:-

“6.2 I have given my careful consideration to the facts of the case, arguments advanced by the AR as also the observation of the AO. So far amounts of Rs. 21,31,832/- (Rs.10,39,780/- plus Rs. 10,91,502/-) are concerned, these expenses pertain to FY 2005-06 and bills relating to them have been accounted for in FY 2007-08. Hence under no circumstances, these expenses can be allowed as a deduction for AY 2007-08. Hence, disallowance of this amount is confirmed.

6.3 So far as balance amount related to purchases (Rs 78,95,142 – Rs. 10,39,780 = Rs. 68,55,362/-) is concerned, the appellant has nowhere demonstrated that the goods purchased vide these bills were received by it and were accounted for in its stocks during FY 2006-07. Hence it cannot be claimed by it that the income of FY 2006-07 has got any element on account of such expenses in the form of sales or closing stock. Hence, the appellant's claim that these expenses should be allowed as a deductions during FY 2006-07 cannot be accepted. Hence these additions are also confirmed.

6.4. So far as disallowance out of bank charges amounting to Rs. 1,06,35,668/- are concerned, the A.O. has stated that the amount received by the appellant were received within F.Y. 2006-07 itself as is apparent from the letters issued by the payees which are bearing the dates within F.Y. 2006-07. However, some hand written entries are appearing on these computerized sheets without any date which suggest that the amounts receivable was not received in full by the assessee as the bank charges were deducted by the bank. The assessee has accounted for this shortfall / expenses in its books of accounts as on 31.03.2008. The A.O. has held that these intimations of shortfall of negotiations are pertaining to the period subsequent to finalization of books for A.Y. 2007-08 hence they have crystallized in the subsequent year. Hand written entries based on subsequent statement / subsequent intimation by the bank regarding bank charges cannot be allowed as deduction in A.Y. 2007-08.

6.4.1 During the course of appellate proceedings, the appellant has again filed the same letters as were filed before the A.O. No bank statements has been filed to show that these shortfall of receipts took place during the F.Y. 2006-07 as evidence that these shortfalls are on account of bank charges deducted during this F.Y. itself. In such circumstances, the appellant's claim that these expenses crystallized during this year cannot accepted in absence

of sufficient evidence. Hence, it is held that the A.O. has correctly disallowed these expenditure."

10. The learned CIT(A) has reproduced the written submissions of the assessee as well as the findings recorded by the Assessing Officer. In brief, the case of the assessee is that certain expenditures were crystallized during this year and, therefore, deduction of such expenditures deserves to be allowed to the assessee. The learned First Appellate Authority has recorded a categorical finding that these expenses have not been crystallized or pertaining to this year and they cannot be allowed in this year. After going through the well reasoned findings of the learned CIT(A), we do not find any error in it. Hence, this ground of appeal of the assessee is also rejected.

11. In the result, appeal of the assessee is dismissed.

Order pronounced in the Court on 19th February 2020 at Ahmedabad.

Sd/-

Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
VICE PRESIDENT

Ahmedabad, Dated 19/02/2020

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , राजकोट/DR, ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad