

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD
BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.892/H/2017		
Assessment Year:2006-07		
M/s. Shakti Hormann Pvt Ltd., (Formerly Known as Shakti Met Dor Ltd.,) Hyderabad. PAN: AADCS 4024 Q	Vs.	Addl. Commissioner of Income Tax, Range-3, Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri P. Murali Mohana Rao	
Revenue by:	Smt Amisha S. Gupt, DR	
Date of hearing:	04/08/2020	
Date of pronouncement:	06/08/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order passed by the Ld. CIT(A)-10, Hyderabad in appeal No. 0409/CIT(A)-10/2015-16, dated 05/01/2016 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2006-07.

2. The assessee has raised several elaborate grounds in its appeals however, the cruxes of the issues are as follows:-

- (1) The Ld. CIT (A) has erred in confirming the addition made by the Ld. AO for Rs. 3,25,182/- by disallowing the expenditure claimed under the head “tools consumed” , treating it as capital expenditure.
- (2) The Ld. CIT (A) has erred in confirming the addition made by the Ld. AO for Rs. 3,49,000/- by disallowing the expenditure claimed towards land development, treating it as capital expenditure. **At the time of hearing the Ld. AR stated that the assessee does not want to press this ground. Accordingly, this ground raised by the assessee is dismissed.**
- (3) The Ld. CIT (A) has erred in confirming the order of the Ld. AO for deleting Rs. 17,38,711/- from the block of assets “building” by stating that the asset was no longer in existence as the building was demolished and failed to grant depreciation.
- (4) The Ld. CIT (A) has erred in confirming the order of the Ld. AO for deleting Rs. 4,758/- from the block of assets “furniture” by stating that the asset was no longer in existence as the furniture was discarded and failed to grant depreciation.
- (5) The Ld. CIT (A) has erred in confirming the addition made by the Ld. AO for Rs. 3,24,180/- towards excise duty on the finished goods, by stating that the assessee has not included the same while valuing the closing stock of finished goods.

(6) The Ld. CIT (A) has erred in not adjudicating the ground raised by the assessee with respect to initiation of penalty proceedings U/s. 271(1)(c) of the Act by the Ld. AO. **At the outset, we find this ground raised by the assessee to be premature and therefore, we dismiss this ground raised by the assessee.**

3. At the outset, it is observed from the record that there is a delay of 368 days in filing the appeal before the Tribunal. In this regard, the assessee had filed a petition seeking condonation of delay wherein the reasons for not filing the appeal within the prescribed time limit was explained. For reference, the relevant portion from the affidavit is extracted herein below:-

“The CIT (A) order in respect of the AY 2005-06 was received on 21/3/2016 and the appeal against the same could not be filed in time as the papers had been misplaced by one of our office staff and the same could not be traced out. The appeal filed on 23/05/2017 with the delay of 368 days as the appeal was due for filing on 20/05/2016. The delay in filing of the appeal may please be condoned and the appeal may please be considered.”

4. On perusal of the explanation given by the assessee in the condonation petition filed before us, we find that the delay in filing the appeal is not attributable to the assessee. Therefore, in the interest of justice, we hereby condone the delay of 368 days in filing the appeal before the Tribunal and proceed to hear the appeal on merits.

5. The brief facts of the case are that the assessee is a limited company engaged in the business of manufacturing, sale and installation of steel doors filed its return of income on 28/11/2006 declaring total income of Rs. 12, 77,93,640/-. Initially, the return was processed U/s. 143(1) of the Act and thereafter the case was taken up for scrutiny and assessment was completed U/s. 143(3) of the Act on 25/10/2008 wherein the Ld. AO made several additions which was further sustained by the Ld. CIT (A).

6. **Ground No.1: Disallowance of expenditure of Rs. 3,25,182/- towards purchase of tools.**

7. During the course of scrutiny assessment proceedings it was observed by the Ld. AO that the assessee had claimed expenditure towards purchase of various tools ranging between approximately Rs. 30,000/- to Rs. 85,000/- aggregating to Rs. 3,25,182/-. The Ld. AO opined that the tools purchased by the assessee has enduring benefit and therefore they should be treated as capital assets. Accordingly, he disallowed the amount of Rs. 3,25,182/- as revenue expenditure, however granted depreciation U/s. 32 of the Act. on appeal, the Ld. CIT (A) confirmed the order of the Ld. AO agreeing with his view.

8. At the outset, we do not agree with the order of the Ld. Revenue Authorities on this issue. From the facts of the case it is apparent that the assessee had declared income of Rs. 12,77,93,640/-. Compared to the income declared by the assessee and the turnover of the assessee the expenditure incurred towards the purchase of tools amounting to Rs. 3,25,182/- is quite negligible and it does not bring any significant influence on the profit of the company. The Generally Accepted Accounting Principles

(GAAP) recognize the concept of “materiality” ie., “in any financial accounting statements, there are some transaction that are too small to be recognised and such transactions might not have any impact on the analysis of the financial statement by an external observer; removal of such irrelevant information to keep the financial statement crisp and consolidated is called the concept of materiality”. This concept is also accepted by the financial accounting standards board (FASB). From the facts of the case it is apparent that the assessee has drawn its statement of affairs adhering to the principle of materiality concept. In this situation, we are of the considered view that the disallowance made by the Ld. Revenue Authorities is not warranted as the expenditure claimed by the assessee is too negligible compared to the volume of the business of the assessee and further it is meaningless to maintain the negligible assets in the books of accounts of the assessee. Further claiming these expenditures as deduction is only revenue neutral because even otherwise depreciation has to be allowed on these petty assets. Hence, we hereby set-aside the order of the Ld. CIT (A) on this issue and further direct the Ld. AO to delete the addition of Rs. 3,25,182/- and accordingly withdraw the benefit of depreciation granted to the assessee.

9. **Ground No.3: Disallowance of depreciation amounting to Rs.17,38,711/-:-**

10. During the course of scrutiny assessment proceedings it was observed by the Ld. AO that the assessee had not deleted the amount of Rs. 17,38,711/- from the written down value of the block “building” however availed depreciation on the entire amount of Rs. 17,38,711/-. It was explained by the assessee that the building was no longer in existence and nothing was realised on the demolition of the same. The Ld. AO opined that since the building was not in existence the written down value of the asset has to

be removed from the block of assets for the purpose of calculation of depreciation. Accordingly, the Ld. AO disallowed the claim of depreciation of Rs. 17,38,711/-. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO by agreeing with his view.

11. At the outset, we do not find any merit in the orders of the Ld. Revenue Authorities on this issue as well. The provisions of section 32(1)(iii) of the Act clearly stipulates that when the net amount receivable on the alienation of an asset including scrap, falls short of the written down value of the asset, then such amount should be treated as depreciation in the hands of the assessee. In the case of the assessee, the written down value of the building is Rs. 17,38,711/- and the same was demolished and nothing was realised out of the building. Hence, as per the provisions of section 32(1)(iii) of the Act it is apparent that the amount of Rs. 17,38,711/- has to be removed from the block of assets and conversely treated as depreciation. It appears from the orders of the Ld. Revenue Authorities that they have only partially followed the provisions of the Act by excluding the amount of Rs. 17,38,711/- from the block of assets without granting depreciation for the entire amount of Rs. 17,38,711/- which is erroneous. Therefore, we hereby set aside the order of the Ld. CIT (A) on this issue and further direct the Ld. AO to grant depreciation of Rs. 17,38,711/- towards the demolition of the building and delete the same from the block of asset. While doing so, the Ld. AO shall also ensure that the same amount is not claimed as loss in the P & L Account once again which will amount to double deduction. It is ordered accordingly.

12. **Ground No: 4: Disallowance of depreciation amounting to Rs.4,758/-:-**

13. During the course of scrutiny assessment proceedings it was observed by the Ld. AO that the assessee had not deleted the amount of Rs.4,758/- from the written down value of the block "furniture" however availed depreciation on the entire amount of Rs. Rs.4,758/-. It was explained by the assessee that the furniture was in a dilapidated condition and therefore it was discarded and nothing was realised on the disposal of the furniture. The Ld. AO opined that since the furniture was no longer in existence the written down value of the asset has to be removed from the block of assets for the purpose of calculation of depreciation. Accordingly, the Ld. AO disallowed the claim of depreciation of Rs.4,758/-. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO by agreeing with his view.

14. At the outset, we do not find any merit in the orders of the Ld. Revenue Authorities on this issue as well. The provisions of section 32(1)(iii) of the Act clearly stipulates that when the net amount receivable on the alienation of an asset including scrap, falls short of the written down value of the asset, then such amount should be treated as depreciation in the hands of the assessee. In the case of the assessee, the written down value of the building is Rs.4,758/- and the same was demolished and nothing was realised out of the furniture. Hence, as per the provisions of section 32(1)(iii) of the Act it is apparent that the amount of Rs.4,758/- has to be removed from the block of assets and conversely treated as depreciation. It appears from the orders of the Ld. Revenue Authorities that they have only partially followed the provisions of the Act by excluding the amount of Rs.4,758/- from the block of assets without granting depreciation of Rs.4,758/- which is erroneous. Therefore, we hereby set aside the order of the Ld. CIT (A) on this issue and further direct the Ld. AO to grant depreciation of

Rs.4,758/- towards discarding the furniture and remove the same from the block of asset. While doing so, the Ld. AO shall also ensure that the same amount is not claimed as loss in the P & L Account once again which will amount to double deduction. It is ordered accordingly.

15. **Ground No: 5: Addition of Rs. 3,24,180/- towards Excise Duty levied on finished goods:-**

16. During the course of scrutiny assessment proceedings it was observed by the Ld. AO that the assessee had not included the Excise Duty paid for valuing the closing stock of finished goods. On query it was explained by the assessee that Excise Duty was not paid towards the closing stock of finished goods and therefore the same was not included for valuing the closing of finished goods. Since the assessee could not produce the details of the same, the Ld. AO opined that the assessee would have paid the Excise Duty on the closing stock of finished goods and therefore he estimated the Excise duty @ 16.32% and added to the value of the closing stock which led to the addition of income amounting to Rs. 3,24,180/-. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO agreeing with his view

17. Before us, the Ld. AR vehemently argued that the assessee had not paid Excise Duty on the closing stock and therefore for the purpose of valuation of the closing stock the Excise Duty payable should not be included and if done so it will be erroneous. Hence, it was pleaded that the addition made on this count may be deleted. The Ld. DR on the other hand submitted that the assessee had not furnished the details regarding the

same which led to the addition and therefore he requested that the matter may be remitted back to the file of Ld.AO for verification.

18. After hearing both sides, we are of the considered view that an opportunity should be provided to the assessee to establish before the Ld. Revenue Authorities that the assessee had not paid the Excise Duty for the unsold finished stock. Therefore, in the interest of justice, we hereby remit back the matter to the file of the Ld. AO to examine whether the assessee had not paid the Excise Duty for its finished closing stock and if found so delete the addition because in that case unpaid Excise Duty need not be added to the value of the finished closing stock of the assessee. If found otherwise, reinstate the order of the Ld. AO passed on the earlier occasion on the issue. It is ordered accordingly.

19. In the result, appeal of the assessee is partly allowed for statistical purposes as indicated herein above.

Order Pronounced in the open Court on 06th August, 2020.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 06th August, 2020.

OKK

Copy to:-

- 1) M/s. Shakti Hormann Pvt Ltd, C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, 1st Floor, Somajiguda, Hyderabad-82.
- 2) Addl. Commissioner of Income Tax, Range-3, Hyderabad.
- 3) The CIT(A)-10, Hyderabad.

- 4) The Chief Commissioner of Income Tax (IT) (SZ), Bengaluru. (ii) The Commissioner of Income Tax (IT & TP), Hyderabad..
- 5) The DR, ITAT, Hyderabad
- 6) Guard File