

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)  
'D' BENCH, MUMBAI**

**BEFORE SHRI M.BALAGANESH, AM**

**&**

**SHRI AMARJIT SINGH, JM**

**ITA No.5310/Mum/2016  
(Assessment Year :2012-13)**

The DCIT-4(2)(2) Mumbai Room No.640, 6 <sup>th</sup> Floor Aayakar Bhavan, M.K.Road Mumbai – 400 020	Vs.	M/s.M.M.Poonjiaji Spices Ltd., 42, Poojiaji House, Anandilal Line, Dhobi Talao Mumbai – 400 002
<b>PAN/GIR No.AACCM2635C</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Debashish, CIT DR
Revenue by	Shri Rajesh S. Shah
<b>Date of Hearing</b>	<b>07/10/2020</b>
<b>Date of Pronouncement</b>	<b>03/12/2020</b>

**आदेश / ORDER**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.5310/Mum/2016 for A.Y.2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-9, Mumbai in appeal No.CIT(A)-9/Cir.4/299/2015-16 dated 10/06/2016 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 27/03/2015 by the Id.

Asst. Commissioner of Income Tax, Rg.4(2), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in giving relief on account of disallowance of stock written off amounting to Rs.11,99,41,682/- in the facts and circumstances of the instant case.

3. We have heard rival submissions and perused the materials available on record. We find that assessee is engaged in the business of manufacturing of pickles, spices, pastes and chutneys and had filed its return of income for the A.Y.2012-13 on 29/09/2012 declaring total income of Rs. Nil. The assessee apart from engaging itself in the business of manufacturing of pickles as stated supra had also engaged in the business of trading in the local market. The assessee company is having two manufacturing activities – one unit is at Ratlam and second unit is at Nasik. The Nasik unit is run under the wholly owned subsidiary called Wisdem Machines Pvt. Ltd., The Ratlam unit is engaged in manufacturing activities of curry powder and some spice products whereas the Nasik unit is engaged in manufacturing of pickles, pastes, sauces and ready meals etc., The Nasik unit of Wisdem Machines Pvt. Ltd., is undertaking job work in the assessee company. The Id. AO during the course of assessment proceedings observed that assessee during the year had written off stock worth Rs.11,99,41,682/- on the ground that the said stock had become stale. Assessee had already treated the said stock as obsolete and had accordingly, reduced the same from the valuation of closing stock made at the end of the year. The Id. AO show caused the assessee as to why the said stock written off should not be disallowed in the assessment. The assessee filed a detailed reply vide

letter dated 05/03/2015. The assessee alongwith said reply also filed stock movement details for various years as under:-

Year's (FY)	Opening Stock	Purchase (Manufacturing) (A)	Raw Material Consumed	Sales (Manufacturing) (B)	Stale Stock write off	Closing Stock	Gross Profit	GP (%) (B-A)/B=100	Ratio
2003-04	14.80	6.62	5.06	15.76		16.36	6.80	58	
2004-05	16.36	7.55	6.19	15.76		17.72	8.01	52	
2005-06	17.72	8.38	5.95	14.07		20.15	7.40	40	
2006-07	20.15	9.67	6.41	14.21		23.41	3.58	32	
2007-08	23.41	6.09	4.60	10.81		24.90	5.34	44	
2008-09	24.90	4.26	4.05	9.50		25.10	5.93	55	
2009-10	25.10	4.15	4.73	8.11		24.52	4.75	49	
2010-11	24.52	4.45	4.63	8.55		24.34	2.69	48	
2011-12	24.34	7.10	7.60	13.19	11.99	11.84	4.31	46	

3.1. The Id. AO observed from the above table that the purchase figure has always been less than the value of opening stock carried by the assessee. The turn over of the assessee is increased from Rs.8.55 Crores in the F.Y.2010-11 to Rs.13.19 Crores in the F.Y.11-12 resulting in over all increase of 54%. The Id. AO also observed that though the assessee company has shown gross profit in different years however, in earlier years the assessee had booked net loss. The Id. AO observed that during year under consideration, the assessee company has shown net profit and had set it off against the stale stock written off which had resulted in reduction of taxable income. Accordingly, the Id. AO observed that the stocks which were the subject matter of write off during the year under consideration were stocks pertaining to earlier years which assessee had not chosen to write off in those years and had conveniently chosen to write off during the year under consideration because of net profit earned by the assessee during the year. The Id. AO also observed that

assessee company had never offered any revenue of the above stock in the past. With these observations, the Id. AO proceeded to disallow the stock write off amounting to Rs.11.99 Crores in the assessment.

3.2. We find that assessee had made the following submissions:-

- a) *Assessee is dealing in food products which are perishable in nature, which cannot have indefinite durable life.*
- b) *Assessee had two manufacturing units- one unit is at Ratlam and Second unit at Nasik. The Nasik unit is run under the wholly owned subsidiary called Widem Machinery P Ltd.*
- c) *Due to unrest amongst the employees (workers at factory) as well as go slow tactics, the stocks was accumulated and resulted into the same becoming stale and not marketable, compelling the company to write off the stock of Rs.11,99,41,682/-.*
- d) *The event Sheet of disturbance in manufacturing of products at factory which are brought into knowledge of the Ld. AO vide letter dated 5.3.2015 alongwith all evidences are as under:*

<i>Date</i>	<i>Event</i>
<i>08/05/2009</i>	<i>Notice issued to all workers, where in the company noticed various tactics adopted by the workers, in delaying the production. The copy of the notice were forwarded to various parties like i) CTU union, ii) Labour Office, iii) Labour Court &amp; iv) Industrial Court,</i>
<i>06/07/2009</i>	<i>Letter address to Senior Police Officer- wherein it was complained that the union of workers are not allowing the loading-unloading and movements of goods.</i>
<i>08/07/2009</i>	<i>Notice to workers- wherein it is stated that the union workers have stopped the contract workers and damaged the property of the company. The Notice also state that the company will be forced to take strict legal action against such workers.</i>
<i>01/12/2009</i>	<i>Notice to all the permanent workers, that they are working since 29/11/2009, no wages -will be paid, the copies of the same was filed with different Police Station and Labour Court as well as Labour Union.</i>
<i>03/22/2009</i>	<i>Final Notice to workers, requesting the workers to resume the work or else the unit will be closed.</i>

11/12/2009	<i>Notice to permanent workers, wherein workers were requested to resume the work, as they stopped working without any intimation. Copies were filed with Police &amp; Workers Union.</i>
04/07/2012	<i>Minutes of Communication between workers union and management of Company.</i>
04/08/2012	<i>Show cause notice for closure of the business and reason stated for the closure of the business. From the perusal of series of incidents, this took place since May 2009, which resulted in closure of unit in August, 2012.</i>
	<i>Prolonged slow tactics has resulted in deterioration of raw material, stores and semi finished stock. Shelf life of the raw materials, semi finished produce and some old stock of finished goods is not more than 2 years, as a result, the semifinished stock was taken valuation as on 31/03/2012, and the stock worth Rs.11.99 cr is written off, as it has no marketable value. Because the export made in March 2012 to M/s Nimco Foods, stationed at Sydney, Australia, wherein the customer has sent email with Photograph which indicates that the Pickles exported were overflowing and solidified white stuff. 70% of bottles have overflowing &amp; solidified white stuff, This spoilage is due to accumulation of semi processed raw material since long.</i>
	<i>Complaint filed before the Industrial Court Maharashtra at Nasik which has added 12 more employees in addition to complaint VLP 11/2013 which also state that the company has discontinued its total manufacturing activities w.e.f. 04/08/2012.</i>
30/11/2010	<i>Due to default in making payment the IDBI Bank Fort Branch declared appellant account as NPA which also affected the liquidity problem and affected the export sales.</i>

*Due to all these problems the assessee stock get stale and accordingly assessee write off the stock off.*

3.3. Apart from the above, the assessee also made detailed submissions that in accordance with Section 145A of the Act read with Accounting Standards – 2 (AS-2) of Institute of Chartered Accountants of India (ICAA) on “valuation of inventories”, the closing stock is to be valued at the lower of cost or net realizable value in accordance with the method of accounting regularly employed by the assessee. It was submitted that

assessee had regularly followed AS-2 issued by the ICAI for valuation of stock. The assessee also placed reliance on the following decisions:

- (a) Decision of the Hon'ble Supreme Court in the case of Chainrup Sampatram vs. CIT reported in 24 ITR 481.
- (b) Decision of Delhi Tribunal in the case of Pepperi-Fuchs (India) Ltd., vs. DCIT reported in 6 SOT 10
- (c) Decision of the Hon'ble Rajasthan High Court in the case of CIT vs. Wolkem India Ltd., reported in 221 CTR 767
- (d) Decision of Hon'ble Delhi High Court in the case of CIT vs. Tupperware India Pvt. Ltd., reported in 53 Taxmann.com 232.
- (e) Decision of Hon'ble Supreme Court in the case of CIT vs. Hindustan Zinc Ltd., reported in 291 ITR 391.
- (f) Decision of Hon'ble Delhi High Court in the case of CIT vs. Hotline Teletube and Components Ltd., reported in 175 Taxmann.286
- (g) Decision of Pune Tribunal in the case of Atlas Copco (India) Ltd., vs. DCIT in ITA No.448/PN/2010
- (h) Decision of Hon'ble Supreme Court in the case of CIT vs. Woodward Governor of India (P) Ltd., reported in 312 ITR 254
- (i) Decision of Hon'ble Supreme Court in the case of CIT vs. Alfa Laval (India) Ltd., reported in 170 Taxman 615
- (j) Decision of Hon'ble Madras High Court in the case of India Motor Parts Accessories (P) Ltd., vs. CIT reported in 60 ITR 531
- (k) Decision of Hon'ble Delhi High Court in the case of CIT vs. Hughes Communication India Ltd., reported in 33 Taxmann.com 95.

3.4. It was specifically submitted by the assessee and also by the Id. AR before us that the observation made by the Id. AO that assessee had written off the stale stock of Rs.11.99 Crores during the year to offset the

income earned during the year is factually incorrect in view of the fact that during the year also, the assessee had actually incurred loss and even if the loss of earlier year is adjusted against income computed by the Id. AO and even after the said disallowance, there was no taxable income for the assessee due to availability of losses carried forward from earlier years. It was also submitted on without prejudice basis that even if the obsolete stocks are accumulated from earlier years and then claimed in subsequent year, the same would still be an allowable expenditure. In support of this contention, the Id. AR placed the reliance on the decision of Delhi Tribunal in the case of Milton Cycle Pvt. Ltd., vs. DCIT reported in 54 TTJ 380.

3.5. The Id. CIT(A) duly appreciated the entire contentions of the assessee and deleted the addition by holding as under:-

*5.3. I have considered the stand of the Assessing Officer as well as the submission made by the appellant. On perusal of details I find that the appellant is in dealing in the perishable food products having short life. Appellant had written off stock and filed the item wise, quantity wise, and stage of process wise (kept on record Page No,19-20 of paper book). Appellant is manufacturing its goods through its subsidiary company M/s Widem Machinery Pvt Ltd. on job work basis. Appellant goods were lying at the premises of subsidiary. At subsidiary factory dispute between management and labour got started in May 2009 onwards and various legal notices/ companies and litigation/ cases were filed by both the parties, supporting evidences were also filed by the appellant. On 30/01/2011 workers stopped the work, therefore, management requested to resume the work vide letter dated 30/01/2011 (Notice kept on Page No.82). But again and again workers stopped the work. Again on 18/10/2011 (Notice kept on Page No.78) the workers stopped the work for want of wages and Diwali Bonus. Therefore, appellant again requested them to resume the work on 18/10/2011 but they threaten the management therefore, the management requested the police to protect the goods and premises of the appellant. Due to these development appellant business highly suffered and turnover fall down by 50%. But the stock was already purchased and lying with the appellant. Appellant maintained the stock in range of the 20 to 25 cr to achieve the sales of Rs.25 cr and above. But, during the year the appellant sales were fall down by 50% which resulted into perishable of 50% stock stale. Opening stock during the year is Rs.24.34 cr and*

stock written off by the appellant as 11.99 cr which is approx 50% of stock. Hence, the written off amount by the appellant is scientifically supported by the circumstances. Further out of Rs.11.99 cr amount of Rs.3.35 cr pertains to Work-in-progress which was opening work in progress. As the workers stopped works in starting of the year also there the stock could not process. As the goods is food product and in this stage mix with sugar, brine, blends, vinegar. Hence, stale within short time, thus the WIP written off by the appellant is justified. Remaining amount of Rs.5.86 cr pertains to the Raw Material which consists of mango, chili, garlic, ginger, and lemon. These entire food items have very short life in days and due to labour problem, stoppage of work, slow movement of goods opening stock of Raw Material gets staled. On perusal of details (Page No. 19 of Paper Book) it is found that the stock written off by the appellant is out of opening stock. Goods purchase during the year is fully consumed and some of opening stock also gets consumed in manufacturing of good. Appellant written off only 1/3 rd of the opening stock which is very justifiable after considering the nature of goods and movement and labour problem. Remaining item which written off is packing material and finished goods. The non movement of goods, the finished goods also gets expired. Even the company faces the complaint from the customer that 70% goods exported by appellant are non usable. This shows that the appellant goods are not usable. Against the sample of 70% goods non usable appellant only written off approx 37% of finished goods. Hence, the action of appellant is justifiable. Appellant following the method of "Cost of net realizable value whichever is lower" for valuation of closing stock regularly as mention in Annexure XVI of Audited Financial Statement. The above method is recognized and prescribed method for valuation of stock by ICAI and accepted by the department. Therefore, the same has to be accepted by the department in view of section 145A. In this regard, reference is made and reliance is placed on the judicial pronouncements as discussed below:

(i) *The Hon'ble Tribunal in case of Pepperi-Fuchs (India) Ltd. v/s DCIT [2006] 6 SOT 10 (DELHI Trib) accepted the above proposition and held that:-*

*" Admittedly, the method of valuation of stock followed by the assessee was cost or realizable value, whichever was lower. The value of the obsolete stock as on 31-3-1998 was lower than its actual cost. The object of valuing closing stock in terms of the method followed by the assessee was to bring to charge the true profits for the year. Where the value of unsold stock is less than its actual cost, adoption of market value, to value it at the end of the year, would imply accounting for an anticipated loss that may result on sale of such goods, maybe in the following year. The said treatment of recognising the loss in the year itself is based on prudence as no trader would show increased profits before its actual realization. [Para 14]*

*The Apex Court in the case of Chainrup Sampat Ram v. CIT [1953] 24 ITR 481, opined that as the profits of income-tax are to be computed in conformity with the principles of commercial accounting, unless such principles stand superseded or*

*modified by a legislative enactment, the loss due to fall in price below cost with respect to the traded goods is allowed even if such loss has not been actually realized in the year itself. Evidently, the emphasis by the Apex Court was to effectuate the theory of prudence underlying the rule that the closing stock is to be valued at cost or market price/realizable value whichever is lower. In the instant case/ the assessee, having valued its obsolete stock at its realizable value/ being lower of the actual cost, the resultant loss had to be taken into consideration to compute the profits chargeable to tax during the year under consideration. The objection of the revenue that the actual sale, which had resulted in the infliction of such loss took place in the subsequent year, was insignificant in the light of the aforesaid principles enunciated by the Apex Court in the case of Chainrup Sampat Ram (supra). Therefore, once the accounting policy of the assessee which was generally accepted in the commercial world, was not doubted by the revenue, the loss resulting on account of its application could not be disallowed merely on the ipse dixit of the Assessing Officer. The assessee's claim with regard to the provision of loss in respect of obsolete items of stock was accordingly allowed. [Para 15]"*

*(ii) Further in appellant case stock as written off due to the exceptional circumstances of labour gets happened. Therefore/ the appellant was forced to write off the stale stock to reflect the true financial statement. Therefore, the stock written off by the appellant is allowable. In this regard reference is made and reliance is placed on the decision of Hon'ble Delhi Tribunal in case of Milton Cycle Industries Ltd. v. DCIT [1996]54 TTJ (Delhi) 380 where the tribunal has observed and held as under:*

*"8. The next grievance of the assessee is that the learned Commissioner (Appeals) erred in upholding the disallowance of a sum of Ks. 2/90/299 being the provisions made by the assessee-company during the year against dead and obsolete stock. Here the relevant facts are that the assessee is engaged in the business of manufacturing bicycles and parts for the last 25 years. During the relevant previous year, it appointed a committee of experts to determine the correct value of old and obsolete stock which had been piling up since the inception of its business when it was felt that the assessee's book results were getting distorted. The committee so appointed made its recommendations and suggested items wise reduction in the value of stocks both of raw-material and of stores and spares. The assessee on the basis of recommendations of this committee reduced the value of its such stocks of raw- material by an amount of Rs. 1,60,453 and that of stores and spares by an amount of Rs. 1,29,846 or Rs. 2,90,299 by debit to its P&L account and in the balance sheet, the value of closing stock of raw-material and stores and spares was shown at the reduced value i.e. after deducting the amount of Rs. 2,90,299 from each and individual items. The claim made by the assessee on this account was rejected by the Assessing Officer and concurrently by the learned Commissioner (Appeals), when*

he took the view that the loss claimed pertained to earlier year and he was not satisfied as to how the accumulated losses of earlier years could be made a charge on the profits of the year. He, thus, upheld the disallowance. Thus, the assessee is aggrieved. The learned counsel for the assessee submitted that the authorities below misread the facts and, therefore, reaching erroneous conclusion. He submitted that the assessee has been in business for the last 25 years and during this period it has accumulated large items of raw-material, stores and spares which have either become obsolete or have lost much of their value because of changed circumstances. He submitted that assessee's results were getting distorted on these facts and under these circumstances year in and year out till a conscious decision was taken to go into the whole question for this purpose a committee of experts consisting of factory manager, production engineer, maintenance engineer, store-keeper accounts officer and purchase officer was constituted which as a result of extensive enquiries recommended that the market value of the items involved was far less than what was being disclosed in the books. The committee recommended reduction in the value of each and every item involved as a result of which a total amount of Rs. 2,90,299 was reduced from the value of such stocks by charging it to P&L account. He submitted that a conscious and bona fide decision was taken to change the method of valuation of such stocks due to business necessity and the same method continued to be followed subsequently as also the reduced value was taken as value of opening stock as on the first day of the following previous year. It was accordingly submitted that on these facts and under these circumstances, the claim made was bona fide and, therefore, allowable. In support of his proposition, the learned Authorised Representative placed reliance on *K. Mohammed Adam Sahib v. Commissioner* (1965) 56 ITR 360(Mad.), *Commissioner v. Carborundum Universal Ltd.* (1984) 149 ITR 759 (Mad.), *Gujarat Machinery Mfg. Ltd. v. ITO* (1992) 42 ITD 35(Ahd.) and *ITO v. Modi Rubber Ltd.* (1993) 45 ITJ 415 (Del.).

9. The learned Departmental Representative on the other hand supported the orders of authorities below and submitted that such accumulated loss could not be claimed by the assessee during the relevant previous year.

10. We have heard the learned representatives and also perused the relevant record. On a perusal of relevant facts and circumstances as detailed above, we are of the view that the change effected by the assessee is bona fide and aimed at obtaining correct business profit. It is nobody's case that assessee has not accumulated such stocks in the past. Undoubtedly such stocks went on losing their values for the purposes of assessee's business thereby distorting assessee's profits year in and year out when a decision was taken to investigate the entire matter by appointing a committee of experts on whose recommendations, based on proper study of market condition,, the assessee-company reduced the value of the impugned stocks (item-wise) to the extent of Rs. 2,90,299 and this very value has been carried forward to the next year and assessed as such. Therefore, on a consideration of relevant facts and circumstances, we are of the view that the

*change effected by the assessee in the method of valuation of its stocks was bona fide, the same having been made on permanent basis and the changed method having been followed in the subsequent years. Therefore, we are of the view that assessee's claim was justified. We accordingly allow this ground of appeal."*

*(iii) Another aspect involved in this issue is that the AO raised one doubt that the stock was written off for showing loss instead of the profit. But the AO failed to consider that the appellant not earned the profit. Loss claimed by the appellant is almost equal to the stock written off. And further, in case of stock written off tax effect is neutral. Because after written off the stock, closing stock will get reduced and same will be carried forwarded to next year as opening balance. Thus, for future cost of goods will be lower. Hence, the stock written off by the appellant is allowable. In this regard reference is made and reliance is placed on the decision of Delhi High Court in case of CIT v/s Hughes Communication India Ltd. [2013] 33 taxmann.com 95 (Delhi) where the Hon'ble Justice Shri R V Easwar on this issue observed and held as under:*

*" These are appeals filed by the revenue under section 260A of the Income Tax Act, 1961 and they are directed against the order dated 26.12.2011 passed by the Income Tax Appellate Tribunal ('Tribunal', for short) in respect of the assessment year 2004-05. The order of the Tribunal is a common order passed in cross-appeals.*

*2. The following questions stated to be substantial questions of law have been proposed by the revenue: -*

*"2.1 Whether learned ITAT erred in deleting the addition of Rs. 90,35,298/- made by the Assessing officer on account of provisions for impairment of stock?*

*2.2. Whether learned ITAT/CIT (A) erred in deleting the addition of Rs. 5,00,00,000/-made by the Assessing officer on account of Sales of VSAT equipment?"*

*3. We may straightaway say that so far as the second question is concerned, the learned standing counsel for the revenue fairly stated that the addition was made on the basis of the sales tax assessment and that the Tribunal deleted the addition on the basis of the order passed by the Joint Commissioner of Sales Tax (U.P.) on 22.12.2006 in appeal by the assessee. The appellate authority by the aforesaid order had deleted the addition. The Tribunal, therefore, held that the addition made in the income tax assessment can no longer survive. It further noted that the assessing officer had no case that the service charges for installation and / or de-installation of VSATs were not declared by the assessee in its books of accounts. In other words, it was the view of the Tribunal that the amount of Rs. 5 crores cannot also be added as service charges. Having regard to the stand taken by the*

*standing counsel for the revenue and also having regard to the fact that the findings of the Tribunal are factual we do not think that the second question can be admitted.*

*4. So far as the first question is concerned, it relates to the valuation of the closing stock. The assessee carries on the business of installation of VSAT equipment. The stock consists of two categories; (i) old and used stock which is categorized as defective but repairable, (ii) demo stock. In its accounts the assessee reduced a sum of Rs. 90,35,298/- from the value of the stock on account of impairment and defects. The claim was made on the footing that the "net realizable value" of the stock had fallen below even the cost price. In support of the valuation, the assessee submitted the basis of the estimate which was prepared by its technical department. Certain details were also submitted regarding certain items of stock together with their realisable rate as on 31.03.2003 and 31.03.2004. The assessing officer rejected the assessee's claim for reduction in the value of the closing stock made on the basis of the net realizable value being less than the cost and made an addition of Rs. 90,35,298/- to the business profits.*

*5. On appeal the CIT (Appeals) noted that though the assessee was right that there was some diminution in the value of inventory, complete details were not available. He, therefore, restricted the addition to 50% i.e. Rs. 45,17,649/-.*

*6. Both the revenue and the assessee filed cross-appeals before the Tribunal. The Tribunal recorded the following findings: -*

*(a) The claim of the assessee that the value of the stock had diminished below the cost is supported by the report submitted by the technical division of the assessee;*

*(b) The details of the valuation were placed before the assessing officer under cover of the letter dated 27.12.2006. These details show that the diminution in the value of the old/ unused stock of the demonstration stock, which came to Rs. 7,93,97,719/- was dealt with in the following manner: (a) Rs. 6,60,92,399/- was debited in the earlier years till the year ended 31.03.2003; (b) an amount of Rs. 42,70,022/- was claimed as consumables in the current year and; (c) the balance of Rs. 90,35,298/- was claimed as diminution in the valuation of the stock below the cost price for the year under appeal;*

*(c) The method of valuing the closing stock at "cost or net realisable value, whichever is lower" is a recognised and accepted principle of accounting;*

*(d) The above method was consistently followed by the assessee. In the other years in which the assessee adopted the same method, the assessing officer has accepted the same;*

*(e) No defect or irregularity in the details submitted by the assessee has been pointed out. The assessing officer has also not been able to show that the figure of net realisable value shown by the assessee was wrong.*

*In the light of the above findings the Tribunal dismissed the appeal of the revenue and the appeal of the revenue and allowed the appeal of the assessee.*

*7. The findings recorded by the Tribunal are not challenged. In fact the learned standing counsel fairly stated that the assessee can value the stock at the lower of the cost or the net realisable value as it is a recognised and accepted method. He, however, submitted that the claim of the assessee was not supported by any details. But this submission is contrary to the finding of the Tribunal which has referred to the assessee's letter dated 27.12.2006 submitted before the assessing officer along with the necessary details in support of the valuation. These details have also been extracted by the Tribunal in para 11 of its order. We are, therefore, unable to accept the contention of the revenue that the claim of the assessee remains unsupported. It is also to be noted that on a question of valuation of the closing stock, any alleged difference of discrepancy tends to balance itself out over a period of years if the same method is consistently followed. This is because the closing stock of one year becomes the opening stock of the succeeding year and any addition made to the valuation of the closing stock to increase the profits for that year automatically gets neutralised when the same figure of closing stock is taken as the opening stock of the succeeding year. What is, therefore, more important to be seen is whether the same method of valuation of stock is followed consistently by the assessee so that there is no distortion of profit. There is also no finding to the effect that the true profits of the business cannot be determined having regard to the method of valuation of stock employed by the assessee. It may be noted that in India Motor Parts & Accessories (P.) Ltd. v. CIT [1966] 60 ITR 531 (Mad.) the Madras High Court noted that the method of valuing the slow moving and obsolescent stock at a price below the cost was a recognised method in other countries and can be properly followed in India too.*

*8. In view of the foregoing discussion we do not think that any substantial question of law arises for our consideration. The appeals are accordingly dismissed.*

*From the above discussion of facts, it is seen that the Appellant has written off the stock on accepted principal of valuation of stock and which has been explained and substantiated by the appellant. Further, keeping in view of the judicial pronouncements as discussed above, it is concluded that the case of appellant is squarely covered by the same. Respectfully following the above decision of the Hon'ble Courts, it will be difficult to withhold the disallowance/addition made by the A.O. Accordingly, the AO is directed to delete the disallowance of stock written off Rs. 11,99,41,682/-.*

*Hence the Ground No. 2 to 5 are Allowed.”*

3.6. We find that the prime argument of the Id. DR before us was that the stock written off by the assessee during the year had become perishable in nature and that the same should have been written off in earlier years itself. The Id. DR vehemently argued that the conduct of the assessee by its decision to decide to write off the same during this year to offset the net profit earned by the assessee during the year is not appreciable. He also submitted that no expert committee report was made available for writing off the stock during the year under consideration.

3.7. We find the intention of the assessee to write off the stale stock should be understood in a pragmatic manner and due to negative developments that had happened during the year under consideration in October 2011 , factory of the assessee was closed due to labour unrest and assessee had also become a defaulter in bank by not able to pay its regular dues to the bank and the bank had declared the assessee account as a non-performing asset (NPA) in its books. Due to the closure of the factory during the year, the assessee thought it fit to reduce the stale stock from the closing stock in its books and there was no possibility of opening the factory in the near future. Hence, retaining the said stale stock would become more stale and obsolete. In this background, assessee had chosen to write off the said stock to present a realistic picture of its financial statements to the tune of Rs.11.99 Crores. With regard to the argument advanced by the Id. DR about the conduct of the assessee of having decided to write off the said stock during this year is concerned, we find that no ulterior motive in any manner whatsoever could be attributed to the assessee in view of the fact that even after

disallowance of stock write off to the tune of Rs.11.99 Crores is made by the Id. Assessing Officer there was no taxable income for the assessee in view of the set off of loss brought forward from earlier years which had also been duly granted by the Id. Assessing Officer in the assessment. Even if these stale stocks had been written off in any earlier years as accepted by the Id. AO in his assessment order and by the Id. DR before us, the same would have only enabled the brought forward losses to get increased. Hence, in any case it will have no impact in the computation of total income for the year under consideration. One more observation made by the Id . AO that assessee had not offered any income in respect of these stocks. This observation is factually incorrect in as much as the stocks worth Rs 11.99 crores was included in the closing stock valuation upto 31.3.2011 and hence income was duly offered for the same. The crucial point to be understood is there is absolutely no dispute that the stock to the tune of Rs.11.99 Crores falls into the category of stale stock. Since this stale stock has been written off to the tune of Rs.11.99 Crores, the assessee rightly had shown as an exceptional or extraordinary item in its profit and loss account as a separate line item in consonance with the requirement prescribed in accounting standards issued by ICAI. We also find that even after this write off of the stock to the tune of Rs.11.99 Crores, the assessee is still left with stock of Rs.11.84 Crores as on 31/03/2012 as is evident from the aforesaid table. This shows the scientific basis of determination of stocks to be written off by the assessee. We also find that the books of accounts of the assessee were not rejected by the Id. Assessing Officer in the instant case. It is pertinent to note that no benefit has been derived by the assessee by this write off of stocks during the year under consideration. Due to exceptional circumstances that had prevailed during this year, the Directors of the assessee company had decided to write off the stocks that were more

than two years old. The details of the same are already on records and hence, not reiterated herein. We find that the assessee had placed details of the same vide pages 1-8 of its paper book giving the details of entire stocks written off by it together with the details mentioning to which year the said stock pertains to. In these circumstances, we do not find any infirmity in the order of the Id. CIT(A) granting relief to the assessee and accordingly, we do not deem it fit to interfere in the same. Accordingly, the ground raised by the revenue is dismissed.

**4. In the result, appeal of the revenue is dismissed.**

Order pronounced on 03/12/2020 by way of proper mentioning in the notice board.

**Sd/-**  
**(AMARJIT SINGH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(M.BALAGANESH)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 03/12/2020  
KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai