

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 132/JP/2020  
निर्धारण वर्ष / Assessment Years : 1998-99

The ACIT, Circle-1, Alwar.	बनाम Vs.	M/s Lord Chloro Alkali Limited, Formerly known as M/s Modi Alkalies & Chemicals Limited, A-264, 1 <sup>st</sup> Floor Defence Colony, New Delhi,
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AABCM 3981 C		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri Amrish Bedi (CIT)  
निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (C.A.)

सुनवाई की तारीख / Date of Hearing : 21/12/2020  
उदघोषणा की तारीख / Date of Pronouncement : 18/01/2021

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

The Revenue has filed the present appeal against the order of Id. CIT(A), Alwar dated 07.11.2019 pertaining to assessment year 1998-99 wherein it has taken the following grounds of appeal:-

*"1. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) is justified in deleting the addition of Rs. 4,24,27,000/- made on account of own money received on the basis of information received from the Central Excise Department, despite the facts that such addition duty*

*determined by Central Excise Department has been confirmed by the CESTAT, New Delhi.*

*2. Whether on the facts and circumstances of the case and in law, the Id. CIT(A) is legally justified in deleting the addition of Rs. 25,00,000/- made on account of interest received on margin money at lower rate than it had to pay the borrowers.*

2. At the outset, it is noted that this is the second round of appellate proceedings where the matter was set-aside to the file of the AO with certain specific directions. During the set-aside proceedings, relevant facts and findings of the AO as contained in order passed u/s 143(3) r/w 254 read as under:

*"While completing assessment u/s 143(3) on 31-01-2001 an addition of Rs. 4,24,27,000/- was made to the income of the assessee on account of cash premium received which was found out of the books of accounts maintained by the assessee. This issue was disputed by the assessee at various levels of appeals and finally the ITAT, Jaipur has restored the issue to the assessing officer. The ITATs observation is as under:-*

*"41. We have heard the rival contentions of both the parties and perused the material available on the record. For AY 1996-97, similar issue has been dealt by the coordinate Bench in ITA 382 & 420/JP/2011 dated 19.08.2016 wherein it was held as under:*

*"We have heard the rival contentions of both the parties and perused the material available on the record The Id. AR has confirmed that the matter before CESTAT is still pending for*

*adjudication and he has given an assurance that as soon as the order is pronounced by CESTAT and a copy is made available to the assessee, the assessee shall forthwith share a copy of the CESTAT order with the AO without any undue delay In light of that, we confirm the order of the Id. CIT (A) and set-aside the matter to the file of the AO to decide the same afresh as per law after taking into consideration the decision of CESTAT. Further we do not see any infirmity in the order of the Id. CIT (A) to allow the claim of the assessee towards payments of excise duty of Rs. 60 lacs, claimed to be paid before the due date of filling of return of income, subject to due verification by the AO."*

*42. In the instant case, the AO has placed his reliance on the findings in the assessment order for AY 1996-97 and given that the Coordinate Bench has already taken view in the matter referred supra, we do not see any reason for us to deviate from the said view taken by the Coordinate Bench. Nothing has been brought to the notice of the Bench in respect of whether CESTAT order has been pronounced or not since the date of passing of order by the Coordinate Bench in August 2016. Once the CESAT order is pronounced, the nature of implications as well as the years involved would be clear and the Revenue as well as the assessee would be in a better position to put foreword their respective contentions. Hence, the findings and directions contained in Coordinate Bench decision for A.Y 1996-97 shall apply mutatis mutandis to the impugned assessment year as well. Hence, ground no. 7 of assessee is allowed for statistical purposes.*

*A/R of the assessee filed his reply on 26.12.2017, which is re-produced as under:-*

*With reference to your notice dated 28.08.2017 on the subject cited above and in continuation to our earlier submission, we respectfully would like to further submit our reply for point No.2 of your above referred notice as under :-*

*1. That against the appeal filed by the assessee for the AY 1998-99, hon'ble ITAT, Jaipur vide their Order date 17.17.2016, had set aside the matter of additions of Rs.4242700/- to your goodself with mention in concluding para(Page No. 35)as under :-*

*"Nothing has been brought to the notice of the bench in respect of whether CESTAT Order has been pronounced or not since the date of passing of order by the co-ordinate bench in August -2016. Once the CESTAT Order is pronounced, the nature of implication as well as the implication as well as the year involved would be clear and the Revenue as well as the assessee would be in a better position to put forward their respective contentions. Hence the finding and directions contained in Co-ordinate Bench decision for AY 1996-97 shall apply mutatis muntadis to the impugned assessment year as. well. Hence ground No. 7 of assessee is allowed for statistical purposes."*

*As per the above mention/directions, the period involved is to be ascertained from the order of CESTAT.*

*2. That the assessee had field appeal before Customs, Excise & Services Tax Appellate Tribunal (CESTAT) against the order dated*

*19.02.2009 of Commissioner of Central Excise (Adjudication) Delhi. The CESTAT heard the appeal and passed the order on dated 17.02.2017. (A copy of the Order is enclosed herewith for your ready reference and record) The assessee then filed appeal in hon'ble Superme Court against the order of CESTAT . The Hon'ble Supreme Court vide order dated 25.08.2017 has dismissed the appeal. The assessee is now in the process of filing a revision petition before the Hon'ble Supreme Court.*

*3. That in the Order CESTAT (page No.2), it is clearly mentioned that the demand of additional duty on alleged cash premium was covering the period of April, 95 to August, 1996 and the total demand for, the period as per show Cause Notice is Rs. 1,45,61,753/-.*

*4 That as per the Order of CESTAT, it is very clear that the period of April, 97 to March, 98(A.Y 1998-99) was not covered and there was no case or demand for the additional duty on account of alleged Cash Premium for this period.*

*5. That the Assessee in his earlier reply had submitted a copy of letter dated 15.07.2014 issued by the Central Excise Department in which the department had clearly reported that there was no case booked for under valuation against the assessee company regarding financial year 1997-98.*

*6. That earlier the letter of Central Excise department and now the Order CESTAT has cleared the doubts for the coverage of period for the alleged Cash premium/ under valuation issue.*

*7. As mentioned in our earlier submission that once the department convinced that there was no such alleged Cash premium practice after 27.08.1996 and accordingly passed the assessment order on 24.01.2000 for the A.Y. 1997-98 in which additions were made against sales upto 27.08.1996 only. However in the next Assessment Order for the A.Y. 1998-99 passed on 31.01.2001, the A.O. made addition of Rs.424.27 Lacs without any basis or information or case or any other thing in hand against the assessee.*

*8. The Hon'ble ITAT, Jaipur had mentioned in their order that the period involved would be clear when the order of CESTAT is pronounced. Since now, as per the pronounced Order of CESTAT, it is clear that the period of 01.04.97 to 31.03.98 was not covered, therefore the additions of Rs. 4,24,27,000/- earlier made in original assessment order were without any basis but only on surmises.*

*In view of the above, we submit your goodself that there was no such case of alleged cash premium/ under valuation during the period 01.04.1997 to 31.08.1998 against the assessee, therefore request to please not to make additions on this matter.*

*The reply filed by the assessee is considered sympathetically but not found tenable because during the course of set-aside assessment proceedings, the assessee has submitted the CESTAT, Principal Bench, New Delhi's said order dated 17-02-2017 passed in. Excise Appeal Number 1605 of 2009. The CESTATs order has decided the issue regarding quantification of differential duty on extra amount*

*collected in cash from buyers and the outcome is against the contentions of the assessee. The conclusive para of the CESTATs order number 51801/2017 dated 17-02-2017 arising out of CCE(Adj.), New Delhi's original order number CCE/ADJ/PKJ/01/2009 date 19/02/2009 is reproduced below -*

*"7. On careful consideration of the facts of the case and the adjudication in terms of direction issued by the Tribunal , we find no infirmity in the said findings of the Original Authority. The differential duty has been calculated based on weighted average and it is pertinent to note that the Original Authority has complied with the directions of the Tribunal and the submission made by the appellants that the present impugned order is beyond the scope of denovo direction by the Tribunal is not factually correct. No other issue was pressed during submission made by the learned Counsel for appellant. As such we find no merit in the present appeal and accordingly dismiss the same."*

*Further CESTATs order was appealed by the assessee in the Supreme Court of India in civil Appeal number 8364/017. This appeal was heard by the Hon'ble Supreme Court on 25-8-2017 which was dismissed as below -*

*"We have heard learned counsel for the appellant and perused the record, We do not see any cogent reason to entertain the appeal. The judgment impugned does not warrant any interference.*

*The appeal is dismissed."*

*In assessee own case in A.Y 1996-97 differential duty of Rs. 1,45,61,753/-raised by the commissioner of Central Excise on 08.12.1998 stands upheld by the CESTAT, New Delhi and on the basis*

*of above information addition was made in AY 1996-97. Therefore it appears that this type of practice of receiving on money has been in general and it is held that same type of practice of receiving unaccounted cash over and above the invoice price is existing in the year under consideration. It is also noted that Ld. CIT(A), Alwar vide his order no. 201/2000/01 dated 30.09.2014 confirmed the addition. Since this amount of differential duty formed basis of addition of Rs. 4,24,27,000/- in the assessee's income-tax assessment completed on 31.01.2001, the same consequently stands upheld.*

*Hence, addition of Rs. 4,24,27,000/- is made to the income of the assessee. Further penalty proceedings U/s 271(1)(c) of the Income Tax Act, 1961 is also being initiated separately for furnishing inaccurate particulars of income by the assessee concealing income."*

3. Being aggrieved, the assessee carried the matter in appeal before the Id. CIT(A) and his findings are reproduced as under:-

*"6.3 I have considered the order passed by the A.O and submissions filed by the appellant. Following facts have emerged;*

- 1. That the appellant is engaged in the manufacturing and sale of various chemicals like caustic Soda, flakes, CSS, FBB etc.*
- 2. That a search was conducted by the Directorate General Anti Evasion, Central Excise on 27/08/1996 where duty evasions have been found and consequently additions were made during A.Y: 1996-97 & 1997-98.*
- 3. That the A.O on the basis of additions made for A.Y: 1996-97 & 1997-98 had made an addition of Rs.4,24,27,000/- for A.Y 1998-99.*

*4. That the matter travelled to Hon'ble ITAT, Jaipur Bench. Hon'ble ITAT vide order dated: 17/11/2016 has restored the matter to the file of the A.O with the following direction:-*

*"41. We have heard the rival contentions of both the parties and perused the material available on the record. For AY 1996-97, similar issue has been dealt by the coordinate Bench in ITA 382 & 420/JP/2011 dated 19.08.2016 wherein it was held as under:*

*"We have heard the rival contentions of both the parties and perused the material available on the record. The Id. AR has confirmed that the matter before CESTAT is still pending for adjudication and he has given an assurance that as soon as the order is pronounced by CESTAT and a copy is made available to the assessee, the assessee shall forthwith share a copy of the CESTAT order with the AO without any undue delay. In light of that, we confirm the order of the Id. CIT (A) and set-aside the matter to the file of the AO to decide the same afresh as per law after taking into consideration the decision of CESTAT. Further we do not see any infirmity in the order of the Id. CIT (A) to allow the claim of the assessee towards payments of excise duty of Rs. 60 lacs, claimed to be paid before the due date of filling of return of income, subject to due verification by the AO."*

*42. In the instant case, the AO has placed his reliance on the findings in the assessment order for AY 1996-97 and given that the Coordinate Bench has already taken view in the matter referred supra, we do not see any reason for us to deviate from the said view taken by the Coordinate Bench. Nothing has been brought to the notice of the Bench in respect of whether CESTAT order has been pronounced or*

*not since the date of passing of order by the Coordinate Bench in August 2016. Once the CESAT order is pronounced, the nature of implications as well as the years involved would be clear and the Revenue as well as the assessee would be in a better position to put forward their respective contentions. Hence, the findings and directions contained in Coordinate Bench decision for A.Y. 1996-97 shall apply mutatis mutandis to the impugned assessment year as well. Hence, ground no. 7 of assessee is allowed for statistical purposes.*

*5. That the Hon'ble ITAT has clearly stated that the set aside assessment would be decided on the outcome of the CESTAT order with regard to the nature of implications as well as the year involved.*

*6. That Hon'ble CESTAT has passed the order on 17/02/2017 In the said order, Hon'ble CESTAT has stated in the opening para itself that the period covered by the demand is April 1995 to August 1996. That further implication of the judgment to my mind is not relevant to the year under consideration as the matter involved is method of valuation of the out of book stocks found during the period in order to determine the duty evaded on such stocks. The relevant part of the CESTAT order is reproduced as under:-*

*IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
West Block No. 2, R.K. Puram, New Delhi - 110 066.  
Principal Bench, New Delhi  
COURT NO. III*

DATE OF HEARING : 10/02/2017.

DATE OF DECISION : 17/02/2017.

*Excise Appeal No. 1605 of 2009*

*[Arising out of the Order-in- Original No. CCE/ADJ/PKJ/01/2009 dated 19/02/2009 passed by The Commissioner of Central excise (Adj.), New Delhi.]*

*M/s Lords Chloro Alkali Limited*

*Appellant*

*Versus*

*CCE, New Delhi*

*Respondent*

*Appearance*

*Shri A.K. Prasad, Advocate- for the appellant*

*Shri G.R. Singh, Authorized Representative (DR) for the Respondent.*

*CORAM: Hon'ble Shri S.K. Mohanty, Member (Judicial)*

*Hon'ble Shri B. Ravichandran, Member (Technical)*

*Final Order No. 51801/2017 Dated 17/02/2017*

*Per. B. Ravichandran:-*

*The appeal is against order dated 19/02/2009 of Commissioner of Central Excise (Adjudication), Delhi. The said order was passed in line with the direction of the Tribunal vide final order No. 195/2002-A dated 24/05/2002. The brief facts of the case are that the appellants are engaged in the manufacture of liquid chlorine and caustic soda flakes liable to Central Excise duty. The Revenue investigated a case against the appellant and initiated proceedings for demanding differential duty on the extra amount collected in cash from the buyers over and above the invoice value. The demand was covering the period April 1995 to August 1996.*

*The case was adjudicated by the Commissioner vide order dated 08/1<sup>2</sup>/1998. He confirmed a total duty demand of Rs. 1,45,61,753/-. On appeal by the assessee, the Tribunal upheld the charge of under valuation. However, the matter was remanded for quantification of differential duty based on comparable value of similar products manufactured and cleared by others. The present impugned order is consequent of such direction for a denovo quantification of duty."*

*7. That the A.O has issued letter to the Central Excise Department vide letter dated 08/07/2014 to enquire whether there was any instance of under valuation of stocks with regard to financial Year 1997-98 relevant for A.Y: 1998-99. That the Central excise department vide letter dated 15/07/2014 has clearly stated that there was no such case of under valuation booked against M/s Modi Alkalies & Chemicals Ltd (now Lords Chloro Ltd) regarding F.Y: 1997-98. The copy of the letter is reproduced as under:-*

*Office of the Superintendent of Central Excise and Service Tax,  
Range-1, Alwar*

*C. No. GL-13/32/LCAL/Misc/447  
The Assistant Commissioner,  
Income Tax Circle-1,  
Alwar.*

*15<sup>th</sup> July, 2014*

*Sir,*

*Sub : Providing information relating to the M/s Lords Chloro Alkali & Chemicals Ltd. for F.Y. 1997-98-Reg.*

*Please refer your letter C. No. ACIT/C-1/ALW/2014-15/302 dated 08.07.2014 on the subject cited above.*

*In this connection it is submitted that as per record available there was no such case of under valuation booked against M/s Modi Alkalies & Chemicals Limited, SP-460, Matasya Industrial Area, Alwar (Rajasthan) (now M/s Lords*

*Chloro Alkali & Chemicals Ltd.) regarding financial year 1997-98 and thereafter, so far.*

*This for your information and necessary action please.*

*Yours faithfully*

*(Superintendent)*

*Central Excise, Range-1,  
Alwar (Rajasthan)*

*That in the assessment order passed in consequent to the set aside proceedings the A.O has again added the amount of Rs.4,24,27,000/- giving following reasons;*

*In assessee own case in A.Y 1996-97 differential duty of Rs. 1,45,61,753/- raised by the commissioner of Central Excise on 08.12.1998 stands upheld by the CESTAT, New Delhi and on the basis of above information addition was made in A.Y 1996-97. Therefore it appears that this type of practice of receiving on money has been in general and it is held that same type of practice of receiving unaccounted cash over and above the invoice price is existing in the year under consideration. It is also noted that Ld. CIT (A) Alwar vide his order no. 20<sup>1</sup>/2000-01 dated 30.09.2014 confirmed the addition. Since this amount of differential duty formed basis of addition of Rs. 4,24,27000/- in the assessee's income-tax assessment completed on 31-01-2001, the same consequently stands upheld.*

*Hence addition of Rs. 4,24,27,000/- is made to the income of the assessee."*

*6.4 I have considered the above mentioned facts of the case. Hon'ble ITAT Jaipur Bench has clearly directed that the set aside assessment would be based on the outcome of the CESTAT order with regard to involvement of the year and the implications of the CESTAT order. It is to be considered that the basis of addition was made out of consequences of a search conducted at the business premises by the directorate of Anti Evasion, Central Excise on 27/08/1996 where as the current case pertains to F.Y:1997-98. It is in this context the Hon'ble ITAT had directed to consider the period involved as per the outcome of the CESTAT order. In the CESTAT order it is clearly mentioned in the opening para itself that the period involved was April 1995 to August 1996. I have also taken into consideration during original assessment proceedings the A.O has sought information about any implication of undervaluation for the F.Y: 1997-98 relevant to A.Y: 1998-99. Central Excise Department has categorically stated in its letter dated 15/07/2014 that no case of undervaluation booked against the appellant w.r.t F.Y: 1997-98.*

*I have also taken note of the fact that A.O in the set aside assessment has again added the same amount on mere presumptions that the appellant on the basis of past practice may have earned on money. However, the additions cannot be sustained merely on presumptions, conjectures and surmises. The A.O has not brought on record any instances or evidences of earning of the on money on account of under valuation or otherwise relevant for the period under consideration. In view of the direction of the ITAT and also the period covered by the CESTAT order was April 1995 to August 1996 and even the Department of Central Excise has not found any*

*undervaluation for the period under consideration. Therefore the addition of Rs.4,24,27,000/-is without any basis hence deleted. Appellant's ground of appeal on this issue is allowed."*

4. Heard both the parties and perused the material available on record. We find that the Id CIT(A) has duly considered the directions of the Coordinate Bench in the first round, the findings of the CESTAT as limited to a specified period and not pertaining to period under consideration, confirmation from Central Excise department that there is no material or evidence for undervaluation for period under consideration and the fact that the AO has merely relied on past years findings and in absence of any material or evidence and only on presumptions, conjectures and surmises has made the additions. The Revenue has failed to controvert the said findings of the Id CIT(A) before us. We therefore affirm the findings of the Id CIT(A) wherein he has rightly deleted the addition of Rs 4,27,27,000/- and the ground of appeal so taken is hereby dismissed.

5. Now, coming to the second ground of appeal relating to disallowance out of interest income of Rs 25 lacs, we find that this issue was again set-aside to the file of the AO in the first round with certain specific directions and the relevant facts and findings of the AO in the set-aside proceedings are as under:

*"While completing assessment u/s 143(3) on 31-01-2001 an addition of Rs. 25,00,000/- was made to the income of the assessee on account of Interest of margin money. This issue was disputed by the assessee at various levels of appeals and finally the ITAT, Jaipur has restored the issue to the assessing officer. The ITAT's observation is as under:-*

*We have heard the rival contentions of both the parties and perused the material available on the record. It is submitted by the Ld AR that the interest paid on ICD is only Rs. 13,72,144/- and there is no fresh ICD and it is coming from last year where the disallowance made in AY 1996-97 was deleted by the Hon'ble ITAT in ITA No. 387/JP/1 dated 19-08-2016. The matter is set-aside to the file of the AO to examine the above said contention of the assessee and where the same is found to be correct, the AO is directed to allow the necessary relief to the assessee following the order passed by the Coordinate Bench for A.Y. 1996-97. The ground no. 10 is thus allowed for statistical purposes.*

*During the assessment proceeding A/R of the assessee filed his reply which is reproduced as under :-*

*The AO made an ad-hoc additions of Rs.25,00,000/- due to the difference in interest rates as reported in the inspection report of department of Company Affairs. Similar additions were also made in earlier year in the A.Y. 1996-97 which has been deleted by the Hon'ble ITAT in their order dated 19.08.2016.*

*In the present case, the Hon'ble ITAT has passed the order as follows:-"*

*We have heard the rival contentions of both the parties and perused the material available on the record. It is submitted by the Id. A/R that the interest paid on ICD is only Rs. 13,72,144/- and there is no fresh ICD and it is coming from last year where the disallowance made in assessment year 1996-97 was deleted*

*by the Hon'ble ITAT in ITA No.387/.IP/1 dated 19.08.2016. The Matter is set aside to the file of the AO to examine the above said contention of the assessee and where the same is found to be correct, the AO is directed to allow the necessary relief to the assessee following the order passed by the Co-ordinate Bench for A.Y. 1996-97."*

*In view of the above; we are enclosing herewith the details of interest paid by the assessee company during the year. Further, we are enclosing herewith Schedule `D' of Final Accounts which shows that there is no increase in Unsecured Loans and Inter-Corporate Deposits.*

*Since, there is no addition in ICD during the year under consideration, it is requested to delete the addition as per observation of Hon'ble ITAT.*

*The reply of the A/R of the assessee company is considered sympathetically but not found tenable because the department of companies affairs made an inspection u/s 209A. In the report it was observed that the company has either charged lower rate of interest or gave interest free loans. Assessee has charged interest as margin money at rate of 9.30% whereas he pay interest on term loan, FDR, Banks from 14.36% to 21.62%. This practice is apply to reduce his profit. It is also mentioned here that order of Hon'ble ITAT in ITA No. 387/JP/1 dated 19-08-2016 pertain to A.Y 1996-97 has been challenged by the department in Hon'ble Rajasthan High Court and now the matter is pending to file SLP. Loan raised at high rates of interest and advanced them on a lower rate was to support, the sister concerns and other group companies satisfied the test of commercial expediency*

*because in the guise of such support the assessee company had minimized its profit. It need not to support its sister concerns or other groups companies at the cost of its loss. It should charge at least interest at the rate which it had to pay to the borrowers. Moreover, if the assessee company had sufficient funds as share capital, then where was the need to borrow funds on such high rate of interest? From this it is clear that the assessee company, in this way, used the funds for its own purposes and reduced the profit in the name of support to group companies.*

*It is also mentioned here that Ld. CIT (A) Alwar vide his office order no. 201/2000-01 dated 30.09.2014 confirmed the above addition. During the assessment proceeding A/R of the assessee only submit chart of interest. A/R of the assessee fail to submit the details of interest paid and interest received with corroborative evidence, the company also fail to submit the reason as why he taken money at higher rate and give to someone lower rates, if the companies has sufficient funds. Hence addition of Rs. 25,00,000/- is made to the income of the assessee. Further penalty proceedings u/s 271(1)(c) of the income tax Act, 1961 is also being initiated separately for furnishing inaccurate particulars of income by the assessee and concealing income."*

6. Being aggrieved, the assessee carried the matter in appeal before the Id. CIT(A) and his findings are reproduced as under:-

*"7.3 I have considered the order passed by the A.O. and submissions filed by the appellant. In this regard, it has been observed that the ITAT has directed to verify the contention of the assessee that Hon'ble ITAT on the assessee's own case has deleted the addition on the*

*similar ground while disposing appeal for A.Y: 1996-97. The A.O has again made the addition on the reason that the ITAT order for A.Y: 1996-97 where the relief was granted on similar issue has been challenged in the Rajasthan High Court and final order has yet to come. I have considered the issue and as per the direction of the Hon'ble ITAT that if the assessee's contention is found to be correct vis-a-vs relief on the similar issue in A.Y: 1996-97 then the benefit is to be granted to assessee for the year under consideration also. Accordingly, the addition of Rs. 25 Lakhs is deleted with the direction that if a contrary judgment comes from Hon'ble Rajasthan High Court for the AY: 1996-97 in the appellant's own then it will apply for the AY 1998-99 also."*

7. We have heard the rival contentions and perused the material available on record. In the first round, the Tribunal has set-aside the matter to the file of the AO to examine the contention of the assessee that there is no fresh ICD placed during the period under consideration and where the same is found to be correct, allow the relief to the assessee following the Tribunal's order for assessment year 1996-97 wherein similar addition was deleted. During the set-aside proceedings, we find that the assessee has submitted the details which show that there is no increase in Unsecured Loans and Inter-Corporate Deposits during the period under consideration. Therefore, following the earlier decision, the matter is decided in favour of the assessee. Further, we find that the Tribunal decision for A.Y 1996-97 has since been confirmed by the Hon'ble Rajasthan in D.B Appeal No. 38/2017 dated 20.11.2017, a copy of which

was submitted by the Id CIT DR before the Bench. In the result, the ground of appeal is dismissed.

In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 18/01/2021.

Sd/-

( संदीप गोसाई )

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव)

(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 18/01/2021.

**\*Santosh**

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

1. अपीलार्थी / The Appellant- ACIT, Circle-1, Alwar.
2. प्रत्यर्थी / The Respondent- M/s Lord Chloro Alkali Limited, New Delhi.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 132/JP/2020 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar