

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: 2997 & 2999/CHNY/2018

निर्धारण वर्ष /Assessment Years: 2012 - 13 & 2015-16

The DCIT,
Central Circle - 2,
Madurai.

**M/s. Ecogreen Cleantech
Pvt. Ltd.,**
(formerly known as M/s.
Adsorbent Carbons Pvt. Ltd.,)
No.C-92, SIPCOT Industrial
Complex, Tuticorin - 628 008.

(अपीलार्थी/Appellant)

PAN: AABCV 0223A

(प्रत्यर्थी/Respondent)

&

C.O. No.: 07/CHNY/2019
(in I.T.A. No. 2997/CHNY/2018)

निर्धारण वर्ष /Assessment Year: 2012 - 13

**M/s. Ecogreen Cleantech Pvt.
Ltd.,**
(formerly known as M/s.
Adsorbent Carbons Pvt. Ltd.,)
No.C-92, SIPCOT Industrial
Complex, Tuticorin - 628 008.

The DCIT,
v. Central Circle - 2,
Madurai.

PAN: AABCV 0223A

राजस्व की ओर से /Revenue by : Shri P. Sajit Kumar, JCIT
निर्धारिती की ओर से/Assessee by : Shri T. Banusekar, CA

सुनवाई की तारीख/Date of Hearing : 24.02.2022

घोषणा की तारीख/Date of Pronouncement : 25.02.2022

आदेश /O R D E R**PER MAHAVIR SINGH, VP:**

These two appeals by the Revenue are arising out of the different orders of Commissioner of Income Tax (Appeals)-19, Chennai in ITA No.432 & 434/17-18, vide orders of even date 17.07.2018. The assessments were framed by the DCIT, Central Circle 2, Madurai u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 28.12.2017 for the assessment years 2012-13 & u/s.143(3) of the Act, vide order dated 31.12.2017 for the assessment year 2015-16. The assessee has also filed cross objection for the assessment year 2012-13.

ITA 2997/Chny/2018

2. During the course of hearing before us, the learned AR for the assessee pointed out that the tax effect in this appeal is below Rs.50.00 lakhs. The learned AR for the assessee further submitted that in view of the CBDT Circular No.17/2019, dated 08.08.2019 brought out by the Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, the appeal was not maintainable and be dismissed. The Ld. Senior DR also agreed to the facts stated by the Ld.AR for the assessee.

3. We have heard the rival submissions and perused the material on record. We find from the records before us that the tax involved in the disputed issue is below Rs.50 lakhs and therefore, in view of the CBDT Circular No. 17/2019 dated 08.08.2019 no appeal should be filed by the Revenue before the Tribunal which has tax effect of Rs. 50.00 lakhs or less and this circular is also applicable retrospectively to all pending appeals. Therefore, the appeal filed by the Revenue is dismissed.

C.O No.07/Chny/2019

4. Since we have dismissed the appeal filed by the Revenue on monetary limits, the cross objection filed by the assessee has become infructuous and hence, dismissed.

ITA 2999/Chny/2018

5. The only issue in this appeal of Revenue is as regards to the order of CIT(A) deleting addition made by AO being difference in stock as worked out on the basis of materials impounded during the course of survey in regard to weight of raw material bought directly

from the market. For this Revenue has raised various grounds which need not to be reproduced.

6. Briefly stated facts are that the assessee is a private limited company and engaged in the manufacturing activity of activated carbon. A search & seizure action was conducted u/s.132 of the Act on 17.11.2015 on the main group company M/s. VVD & Sons (P) Ltd. Subsequently a survey u/s.133 of the Act was conducted on the business premises of the assessee and during survey the Department verified various record and income tax returns. At the time of survey, the assessee company has filed its return of income up to assessment year 2014-15 ie., the relevant assessment year. The assessee's factory is situated at Tuticorin and its marketing office is located at Egmore, Chennai. The AO during the course of assessment proceedings noted that the Revenue during the course of survey on the assessee's premises on 17.11.2015 found that there was quantitative variation in input between books of accounts and that shown in the return of income and sale suppression of the quantity. The AO noted that there are discrepancies noticed in the input of raw material and sale of finished goods as the impounded material to the extent of 22,10,466 Kgs. The AO has pointed out

the discrepancy in the tabular which need not be reproduced. The AO by applying the rate per Kg of Rs.14.5 as on 31.03.2014 quantified the variation at Rs.3,09,30,583/-. The AO required the assessee to explain the same and assessee vide its reply stated that the total work charcoal was shown at 2,13,943 kgs and coconut shell charcoal at 20,73,007 kgs and thereby total was at 42,12,460 kgs. According to assessee, the coconut shell charcoal was used for making granulated charcoal, which is not activated. According to assessee, it had disclosed the consumption of coconut shell charcoal of 20,73,007, which yielded finished goods at 19,43,444 kgs which was sold during the financial year 2014-15 relevant to this assessment year 2015-16. It was further explained that as per tax audit report the manufacturer granulated charcoal of 19,43,444 kgs has been sold during the year. Hence, the consumption of activated carbon is to the extent of 21,39,453 kgs as per detail furnished in the return of income. Thereby the assessee confirmed that the input for making activated carbon is only 21,39,453 kgs. Thereby, the difference in granulated charcoal of 1,33,559 kgs is due to difference between consumed charcoal and the sales made. The AO was not convinced with the reply, but no reasons cited and added the difference in input of raw material i.e., charcoal shells

amounting to Rs.3,09,30,583/- and added to the total income of the assessee. Aggrieved assessee preferred appeal before the CIT(A).

7. The CIT(A) deleted the addition by observing in para 5.5, 5.6 & 5.7 as under:-

5.5 The submissions of the appellant are plausible in that, the A.O. had taken the weight of the raw material recorded in the Kiln register which underwent curing process resulting in weight reduction. Whereas, the appellant has reported in the ROI, the weight of the raw material before the purification process was undertaken i.e., at the first stage of process. Hence, there is every possibility of difference in weightage. This cannot be termed as discrepancy in weight as comprehended by the A.O.

5.6 Further, the assessee had maintained complete details of stock in the ledger account. The same was produced before the A.O. The assessee further emphasized that the accounts of the assessee were audited and audited accounts contained quantitative details of opening stock, purchases, sales and closing stock. The audit report was filed in the asst. proceedings. Sales and purchases are fully vouched and the stock account could be verified both in quantity and in terms of money. There is no change in the valuation of stock or in method of account. The AO has not rejected the accounts and there is no any material defect in the books of accounts pointed out by the A.O.

5.7 The quantitative details of goods purchased and sold have been maintained by the assessee. Further, day-to-day stock register was available. There was further no change in the method of accounting employed by the assessee. Value of stock was duly reflected in the report of auditors filed with the return.

Aggrieved, now Revenue is in appeal before the Tribunal.

8. We have heard rival contentions and gone through facts and circumstances of the case. Before us, the Id.AR for the assessee explained the quantity of input of raw material as given in Form No.3CA & 3CD along with the relevant annexures. The Id.AR for the assessee Shri T. Banusekar took us through the quantitative details of raw material at 35 (bA) & 35 (bB) which is as under:-

35	bA	Raw materials :									
		Item Name	Unit	Opening Stock	Purchase during the previous year	Consumption during the previous year	Sales during the previous year	Closing stock	Yield of finished products	Percentage of yield	Shortage/excess, if any
		WOOD CHARCOAL	kilo-grams	24301	2181160	2139453	0	66008	443669	21.00	0
		COCONUT CHARCOAL	kilo-grams	535958	1830725	2073007	0	293676	1943444	94.00	0
35	bB	Finished products :									
		Item Name	Unit	Opening Stock	Purchase during the previous year	Quantity manufactured during the previous year	Sales during the previous year	Closing stock	Shortage/excess, if any		
		WOOD CARBON	kilo-grams	111077	12580	443669	413611	153715	0		
		COCONUT SHELL CARBON	kilo-grams	681026	86560	0	177189	589047	1350		
		GRANULATED CHARCOAL	kilo-grams	0	0	1943444	1943444	0	0		

From the above, the Id.AR explained that there is slight difference in wood charcoal, finished product wood carbon but there is no difference between the raw material of coconut charcoal and the end product granulated charcoal. He compared their quantities given in regard to coconut charcoal, the input and finished product granulated charcoal which is same with 19,43,444 kgs. He matched these figures. The Id.AR for the assessee also filed details of summary of Kiln Feeding Input Data for the financial year 2014-15 and enclosed in assessee's paper-book pages 14 to 23 to support this audit results. The Id.AR admitted that there is slight difference, which is very negligible, in the wood charcoal i.e., input item and the wood carbon i.e., finished goods and that is also around 30,000 kgs approx. For this also, the Id.AR explained that this difference is due to wastage, removing impurities and weight loss. In these reasons there are some impurities which industry accepts that there will be some wastage. We are in agreement with the argument of the Id.AR that the impurities are according to industry standards and for this even Id. Senior DR has not controverted.

8.1 We find that the assessee is able to explain the difference which is very negligible, hence, we find no infirmity in the order of

CIT(A) and the same is affirmed. This appeal filed by the Revenue is dismissed.

9. In the result, both the appeals of the Revenue and the cross objection of the assessee are dismissed.

Order pronounced in the court on 25th February, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 25th February, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|-------------------------|------------------------------|
| 1. निर्धारिती/Assessee | 2. राजस्व/Revenue | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |