

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA
[Before Shri Rajpal Yadav, Vice-President & Shri Rajesh Kumar, Accountant Member]

I.T.A. No. 85/Kol/2019
Assessment Year : 2011-12

ACIT, Circle-12(2), Kolkata	Vs.	M/s Uniworth Textiles Ltd. (PAN: AAACF 4449 H)
Appellant		Respondent

Date of Hearing	19.04.2022
Date of Pronouncement	09.05.2022
For the Appellant	Shri Navratan M Bhansali, Advocate
For the Respondent	Shri Gourav Kanaujia, CIT(DR)

ORDER

Per Shri Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the Commissioner of Income Tax(Appeals)-4, Kolkata [hereinafter referred to as ‘CIT(A)’] dated 18.09.2018 for the assessment year 2011-12.

2. The revenue has raised following grounds of appeal:

1. *That on the facts and circumstances of the case, the Ld. CIT(A)-4, Kolkata erred in deleting the addition made by the AO regarding provision for impairment loss of Rs. 7,77,70,000/- without appreciating the findings brought on record by the AO.*

2. *That on the facts and circumstances of the case, the Ld. CIT(A)-4, Kolkata erred in deleting the addition made by the AO regarding sundry balance written off amounting to Rs. 8,56,692/-.*

3. *That the appellant craves to add, delete or modify any of the grounds of appeal before or at the time of hearing.*

3. The issue raised in ground no. 1 is against the deletion of addition by the Ld. CIT(A) as made by the AO on account of provision for impairment of loss of Rs. 7,77,70,000/-.

4. The facts in brief are that during the assessment proceedings, the AO noted that the assessee has charged to the profit and loss account a sum of Rs. 7,77,70,000/- on account of provisions for losses arising from impairment in the value of assets and accordingly the AO called upon the assessee to furnish the details of loss from impairment of assets which was replied by the assessee vide letter dated 20.03.2014. According to the assessee the fixed assets have impaired resulting into unrealistic value being shown than the realizable value of these fixed assets. The assessee submitted that accordingly after getting these assets valued from the Govt Approved Valuer, the losses towards impairment of assets were claimed in the profit and loss account in accordance with Accounting standard AS-28 issued by ICAI,. According to the AO the said loss is not allowable as there is no provision in the Act to allow any loss on account of impairment in the value of fixed assets unless the same are destroyed , discarded or sold and thus the claim of the assessee was rejected by the AO and corresponding addition was made to the income.

5. In the appellate proceedings, the Ld. CIT(A) by passing a very cryptic order allowed the claim of the assessee by referring to AS-28 which deals with the impairment of assets and allowed the appeal on this issue of loss on account of impairment in the value of fixed assets in the books of account. The Ld. CIT(A) has also referred to the valuer report of Govt. Registered Valuer while allowing the appeal on this issue.

5. After hearing the rival parties and perusing the material on record, we find that the deletion of addition by ld CIT(A) on account of loss resulting from impairment of fixed assets based on the valuation done by Government Registered approved Valuer is not in consonance with the provisions of the Act. The ld Counsel of the assessee referred to the provisions of section 41(2) of the Income Tax Act, 1961 (hereinafter referred to as the Act) when he was queried that under what provisions of the Act the

loss on impairment in the value of fixed assets was claimed. We have perused the provisions of section 41(2) of the Act carefully and in our view the section deals with the loss arising from building, machinery, plant or furniture which are owned by the assessee and in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and which has been used for the purposes of business which is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, then so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the money is payable for the building, machinery, plant or furniture. Thus we do not find any substance or merit in the contentions of the Ld. A.R that the assessee's case is covered by the provision of Section 41(2) of the Act as the provisions of Section 41(2) deals with the charging of income in the year in which is sold, discarded, demolished or destroyed, but not the case where the assessee continue to hold the fixed assets and loss or impairment in the value of asset is calculated on the registered valuer report. The case cited by the Ld. A.R. before us namely M/s Indowind Energy Ltd. vs. DCIT in ITA No. 938/MDS/2015 for AY 2011-12 dated 27.10.2016 is not applicable as the said decisions was rendered in the context of book profit u/s 115JB of the Act. Under these circumstances we are inclined to reverse the order of the Ld. CIT(A) by allowing the ground no. 1 raised by the revenue.

6. The issue raised in ground no. 2 is against the deletion of addition by the Ld. CIT(A) of Rs. 84,56,692/- as made by the AO on account sundry balance written off.

7. Facts in brief are that during the assessment proceedings, the AO noted that the assessee has written off Rs. 84,56,692/- under the head sundry balances and charged the same to the profit and loss account. Accordingly, the assessee was called upon to file the details of such claim as debited by the assessee. The assessee replied to the AO vide written submission dated 20.03.2014 submitting that the claim comprised of sundry balances written off as well as stocks written off however wrongly claimed

under the head sundry balances written off. The AO observed from the details furnished by the assessee that the said claim of the assessee represented the garment stocks, stock of trims written off during the year beside petty balances written off on account of sundry Debtors/creditors. Finally the AO rejected the claim of the assessee and added the same to the income of the assessee.

8. In the appellate proceedings, the Ld. CIT(A) allowed the claim of the assessee by observing that the claim of the assessee was allowed on the ground that the sundry balances written off which also included garment stock and stock of trims written off. The Ld. CIT(A) allowed the claim of the assessee by accepting the contentions that this is a mistake in the classification as the said written offs were made under the wrong head however undoubtedly represented the business loss and thus allowed the appeal of the assessee.

8. After hearing the rival parties and perusing the material on record, we find that during the year the assessee has written off the sum of Rs. 84,56,692/- on account of sundry balance written off which was charged to the account of profit and loss account. We note that the substantial part of the amount represented the stock written off in respect of garment stock and stock of trims and only a small portion of the total represented sundry debtors written off. The Ld. Counsel of the assessee vehemently argued before us that this is mere claim of genuine nature made by the assessee under the wrong head which represented the business loss and should be allowed to the assessee. We note that the claim has rightly been allowed by Id CIT(A) by appreciating the facts after going through the details filed by the assessee. Having considered these facts we have no iota of doubt in our mind that even the stocks written off which are rendered unserviceable represented a business loss and has to be allowed while computing the income of the assessee though the assessee has made the claim under the head sundry balance written off. In our considered view the mistake of the assessee would not disentitle it from a lawful expenditure. Accordingly, we upheld the order of Ld. CIT(A) by dismissing the grounds raised by the revenue.

9. In the result, the appeal of the revenue is partly allowed.

Order is pronounced in the open court on 9th May, 2022

Sd/-
(Rajpal Yadav)
Vice-President

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 9th May, 2022

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- ACIT, Circle-12(2), Kolkata
2. Respondent – M/s Uniworth Textiles Ltd., Rowdon Chamber, 11A, Sarojini Naidu Sarani, Kolkata-700017
3. The CIT(A)- 4, Kolkata (sent though e-mail)
4. Pr. CIT- Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata