

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “C” BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 1504/Ahd/2019
Assessment Year 2015-16**

The ACIT, Circle-1, Bhavnagar (Appellant)	Vs	M/s. Shree Electromelts Ltd. ¾ Kartikey Complex, Kalanala, Bhavnagar-36401 PAN: AADCS0001K (Respondent)
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**Appellant by : Smt. Leena Lal, Sr.D.R.
Respondent by : None**

Date of hearing : 30-05-2022
Date of pronouncement : 31-05-2022

आदेश/ORDER

PER : ANNAPURNA GUPTA, ACCOUNTANT MEMBER:-

The present appeal has been filed by the Revenue against the order passed by the Commissioner of Income Tax (Appeals)-6, Ahmedabad, (in short referred to as CIT(A)), dated 26-07-2019, u/s. 250(6) of the Income Tax Act, 1961(hereinafter referred to as the “Act”) pertaining to Assessment Year (A.Y) 2015-16.

2. At the outset itself, Ld. Counsel for the assessee contended that the issue raised in the present appeal is covered in favour of the assessee by the order of the ITAT in the case of the assessee itself in preceding year, i.e A.Y 2014-

15 wherein identical disallowance made by the AO was deleted by the Ld. CIT(A) whose order in turn was upheld by the ITAT in its order passed in appeal filed by the Revenue in ITA No. 827/Ahd/2018 dated 18.02.2020. Copy of the order was placed before us.

3. We have gone through the orders of the authorities below. We have noted from the orders of the authorities below that addition in the impugned case was made to the income of the assessee by rejecting its books of account and estimating its gross profits resulting in addition of Rs. 1,86,64,573/- and addition was also made on account of work-in-progress amounting to Rs. 60,85,690/-. The books of accounts were rejected by the A.O. noting that the assessee was involved in two businesses of manufacturing of MS Steel Ingots and Coke and that while it was earning huge profit in the Coke unit, the MS Steel Ingots unit was returning huge losses which in turn were being set off against profits of the Coke unit. The A.O. further noted that pattern of power consumption vis a vis per MT production in the MS Steel Ingots manufacturing unit varied considerably for which no reasonable explanation was furnished by the assessee. For this reason, he rejected the books of the assessee u/s. 145(3) of the Act and on the basis of G.P. returned by comparable units, he applied a G.P. rate of 2.81% to the turnover of the assessee as against (-) 0.77% G.P. returned by the assessee, resulting in addition of Rs. 1,86,64,573/-.

4. The addition on account of work-in-progress was made in relation to the Coke unit of the assessee wherein the A.O. noted that the assessee had not shown any work-in-progress despite the fact that the process of conversion Coal to Coke (carbonization) was a long process taking almost 72 hours and therefore it was improbable that there was no WIP as at the end of the year. The A.O. thereafter

worked out the WIP of Coke of Rs. 60,85,690/- and made addition of the same to the income of the assessee.

5. The Ld. CIT(A) deleted both the additions against which the revenue has come up in appeal before us raising the following grounds:

1. *Whether on the facts and in the circumstances of the case, the decision of Ld. CIT(A) is justified in allowing relief with regard to the addition of additional GP of Rs. 1,86,64,57/- made by the AO, overlooking the facts of the case that the AO has rejected the books of accounts of the assessee and stating that the production recorded by the assessee in its books of accounts is completely inconsistent vis-a- vis the power consumption.?*
2. *Whether on the facts and in the circumstances of the case, the decision of Ld. CIT(A) is justified in allowing relief with regard to the disallowance made of Rs 60,85,6907- on account of Work in Progress closing stock overlooking the facts of the case that the assessee has not shown any WIP nor qualified anywhere in the notes of the audit report about the Work in progress though the books of the assessee company has already been rejected by the AO?*
3. *It is therefore, prayed that the order of the Ld.CIT(A) be set aside and that of the assessing officer be restored to the above extent.*

6. We have perused the order of the ITAT in the preceding year i.e. A.Y. 2014-15 and we have noted there from that identical addition relating to gross profit estimation after rejecting the books of the assessee and work-in-progress addition of the Coke unit was made which was deleted by the Ld. CIT(A) whose order in turn was upheld by the ITAT in its order passed in ITA No. 827/Ahd/2018 dated 18.02.2020.

7. The Id. D.R. was unable to point out any distinguishing fact in the present case with respect to that in the preceding year.

8. In view of the above, it is evident that the issue raised in the present appeal stand covered by the order of the ITAT in the preceding year, following which we uphold the order of the Ld. CIT(A) deleting both the additions pertaining to G.P. amounting to Rs. 1,86,64,573/- and work-in-progress amounting to Rs. 60,85,690/- respectively. The grounds of appeal raised by the Revenue are therefore dismissed.

9. In effect, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 31-05-2022

Sd/-
(TR SENTHIL KUMAR)
JUDICIAL MEMBER True Copy
Ahmedabad : Dated 31/05/2022

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद