

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI A BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President),
and Pavan Kumar Gadale (Judicial Member)]**

ITA No. 7578/Mum/2013
Assessment Year: 2006-07

**Assistant Commissioner of Income Tax
Large Tax Payer Unit, Mumbai**

.....Appellant

Vs.

ACC Limited
Cement House, 121, M.K Road, Mumbai 400 020
[PAN:AAACT1507C]

.....Respondent

Appearances by:

Yogesh Thar along with **Chaitanya D. Joshi & Sukanya Jayaram** for the appellant
Shailja Rai along with **Manoj Sinha** for the respondent

Date of concluding the hearing : 08/08/2022
Date of pronouncing the order : 08/08/2022

ORAL ORDER
(Dictated in the open court)

Per Pramod Kumar VP

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 25.09.2013, passed by the learned CIT(A) in the matter of order given effect to the CIT(A)'s order in the matter of assessment u/s. 143(3) of the Income Tax Act, 1961 for the assessment year 2006-07.
2. Grievance raised by the Assessing Officer is as follow:-

On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in directing to delete the addition made by AO on unutilized modvat credit referable to closing stock based on

CIT(A)'s order dated 12.09.2011 without appreciating the facts that relief was given on net addition of Rs. 7,41,62,393/- .

3. When this appeal came up for hearing Shri Yogesh Thar, learned counsel for the assessee fairly accepted that he has to concede the point inasmuch as while the disputed addition for only in respect of the difference between opening stock and closing stock, but the learned CIT(A) inadvertently has given relief in respect of the entire closing stock. The learned Departmental Representative obviously does not oppose the stand of the assessee.

4. In view of the above discussions and as agreed to the parties the impugned relief granted by the learned CIT(A) stands vacated and the appellant succeeds on this issues.

5. In the result, the appeal is allowed. Pronouncement and dictated in the open court today on the 08th August, 2022.

Sd/-

Pavan Kumar Gadale
(Judicial Member)

Sd/-

Pramod Kumar
(Vice President)

Mumbai, dated the 08th August, 2022

Copies to:

(1)	<i>The appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

By order

*Assistant Registrar/ Sr. PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai*