

आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE MS.SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.348/Ind/2017
Assessment Year: 2012-13

DCIT-1(1) Indore	बनम/ Vs.	M/s. Bridgestone India Pvt. Ltd., Pithampur, District-Dhar
(Appellant / Revenue)		(Respondent / Assessee)
PAN: AABCB 2304 E		
Revenue by	Shri Ashish Porwal, Sr. DR	
Assessee by	Shri Manoj Fadnis, CA and AR	
Date of Hearing	15.12.2022	
Date of Pronouncement	30.01.2023	

आदेश/O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 27.02.2017 passed by learned Commissioner of Income-Tax (Appeals)-III, Indore[“**Ld. CIT(A)**”], which in turn arises out of assessment-order dated 29.02.2016 passed by learned DCIT-1(1), Indore[“**Ld. AO**”] u/s 143(3) of Income-tax Act, 1961 [“**the Act**”] for Assessment-Year[“**AY**”] 2012-13, the assessee has filed this appeal on following grounds:

- “(1) *Whether on the facts and circumstances of the case, the Ld.CIT(A) has erred in law by deleting the addition of Rs.2,68,60,595/- made by the AO on account of under valuation of closing stock.*

2. *Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in not considering*

i. *That as per section 145A, the valuation of closing stock is required to be done in accordance with the method of accounting regularly employed by the assessee and further adjusted to include in it any tax, duty, cess or fee actually paid or incurred by the assessee.*

ii. *That the provision of section 145A has overriding effect on section 145.*

iii. *That whatever may be accounting standard, the same cannot override the statute.*

3. *The appellant reserves his right to add, amend or alter the ground of appeal on or before the date, the appeal is finally heard for disposal.”*

2. Heard the learned Representatives of both sides at length and case-records perused.

3. Briefly stated the facts are such that the assessee-company filed return of income of relevant AY 2012-13 on 29.11.2012 which was subjected to scrutiny-assessment and statutory notices u/s 143(2)/142(1) were issued. Finally, the Ld. AO completed assessment u/s 143(3) read with section 144C after making certain additions, one of those additions was on account of inclusion of excise duty of Rs. 2,68,60,595/- in the valuation of closing stock u/s 145A. Being aggrieved, the assessee carried matter in first-appeal and succeeded. Now, being aggrieved by the order of first-appeal, the revenue has come in this appeal before us.

4. By means of various grounds, the only grievance of revenue is that the Ld. CIT(A) has erred in deleting the aforesaid addition of Rs. 2,68,60,595/- made by Ld. AO.

5. Ld. AR representing the assessee submits that the Ld. AO has invoked section 145A and come to conclude that while computing the valuation of closing stock, the assessee had not included the component of excise duty. However, the Ld. AO has overlooked the fact that the assessee is following “exclusive method” of accounting and the section 145A prescribes “inclusive

method". Ld. AR submits that whatever method is applied, there would be no impact on the net profit of assessee and this proposition is well-settled in numerous judicial rulings as well as assessee's own cases of earlier years. Drawing our attention to the past-history of assessee, the Ld. AR submits as under:

- (i) Consolidated order dated 20.06.2016 of ITAT Indore in TPA No. 615/Ind/2010 for AY 2006-07 and TPA No. 547, 548 & 738/Ind/2014 for AY 2005-06, 2008-09 and 2009-10:

ITAT, Indore allowed assessee's stand in principle but, however, directed the Ld. AO to verify the workings. In pursuance thereof, the Ld. AO passed orders for AY 2005-06, 2006-07, 2008-09 and 2009-10, all dated 21.07.2016, copies of which are placed at Page No. 117 to 136 of the Paper-Book, wherein the Ld. AO has finally made no addition being satisfied with the stand of assessee. As a matter of fact, the Ld. AR has also pointed out that the revenue filed next appeals, against the Orders of ITAT Indore, to Hon'ble High Court of M.P. in ITA No. 130/2016 to 133/2016 whereupon the Hon'ble High Court, vide its order dated 02.11.2017, was pleased in not admitting the revenue's appeals.

- (ii) Order dated 31.01.2018 of ITAT Indore in ITA No. 1539/Ind/2016 for AY 2011-12:

ITAT Indore dismissed the departmental appeal and allowed the assessee's stand on the same issue.

6. Ld. DR fairly accepted the submissions of Ld. AR.

7. We thus note that the impugned issue is well-settled in favour of assessee in these Orders of earlier years. We also observe that the Ld. CIT(A) has also allowed relief to assessee by following the very same Orders of earlier years. In absence of any change in facts or law, we do not find any

valid reason to deviate from the view taken in these Orders, hence we find no infirmity in the action of Ld. CIT(A). Therefore, we subscribe to the order of first-appeal passed by Ld. CIT(A) and uphold the deletion. The revenue fails in all grounds raised in present appeal.

8. Resultantly, this appeal of revenue is dismissed.

Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 30/01/2023.

Order pronounced in the open court on/...../2023.

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/Dated : 30.01.2023
Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*

1.	Date of taking dictation	10.1.23
2.	Date of typing & draft order placed before the Dictating Member	10.1.23
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	10.1.23
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	