

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.134/PUN/2023  
निर्धारण वर्ष / Assessment Year : 2015-16

Racold Thermo Private Limited,  
Gat No. 264/265, 374/376  
Talegaon Road, Chakan,  
Pune – 410501

PAN : AAECM0766G

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,  
Circle – 8, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ketan Ved  
Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 08-08-2023  
घोषणा की तारीख / Date of Pronouncement : 09-08-2023

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 09-12-2022 passed by the National Faceless Appeal Centre, Delhi ("NFAC") for assessment year 2015-16.

2. Ground No. 1 consisting of 1.1 and 1.2 raised by the assessee challenging the action of CIT(A), NFAC, Delhi in confirming the disallowance made by the AO on account of provision for obsolescence of inventory.

3. It is noted that the assessee claimed opening balance towards provision for obsolescence of inventory. It is noted that the detailed obsolete inventory of finished goods for the year under consideration is at page 2 of the assessment order and claimed an amount of Rs.94,84,470/-. According to the AO, the assessee had utilized only part of the provision, rest is carried forward for the next year and the assessee was asked why the remaining unutilized amount for provision made on account of obsolescence of inventory should not be added to the total income of the assessee. The assessee explained vide its reply dated 13-11-2017, due to technological advancements and development of the markets with respect to water heaters and the technology used in it, any unsold goods (finished goods as well as spares) over a period of one year starts becoming obsolete due to on account of newer and better models being launched in the market. The AO did not accept the submissions of the assessee on the ground that the Income Tax Act do not allow valuation of inventory as per internal policy guidelines of assessee. As per the provision of the Income Tax Act, closing inventory has to be valued either at cost price or market price whichever is less. Further, he observed that the assessee could not substantiate its claim that the market value of the obsolete inventory is Rs.Nil or half of the cost price and in the absence of which he added an amount of Rs.8,04,788/- to the total income of the assessee by disallowing the same u/s. 37 of the Act.

4. The CIT(A) was of the opinion that there was no consistency in the provision made and the actual claim year after year. He compared the opening balance and closing balances of obsolete inventory with the actual obsolescence and held to be substantially lower. Further, he observed there is no material evidence placed on record to support the provision and no evidence to show that the excess provision was written back in the

succeeding year or in the year of sale of obsolete stock. Further, there was no evidence to demonstrate that obsolete stock was valued at lower of cost or net realizable value and by holding so, confirmed the order of AO.

5. The ld. AR, Shri Ketan Ved drew our attention to the order of this Tribunal in assessee's own case in ITA No. 681/PUN/2018 for A.Y. 2013-14, referred to para 8 of the said order and prayed to follow the same finding recorded by the Tribunal in remanding the matter to the file of AO for its satisfaction to verify whether the valuation is done based on the principle cost or market price or net realizable value. The ld. DR did not dispute the same and no order contrary to the view taken by the Tribunal in assessee's own case for A.Y. 2013-14 brought on record. For better understanding para Nos. 8 and 9 of the said order is reproduced hereunder:

*“8. We heard the rival submissions and perused the material on record. The issue in the present appeal is with regard to the allowance of provision for obsolete inventory of finished goods and spare parts. The identical issue was considered by this Tribunal in assessee's own case for assessment year 2011-12 in ITA No.499/PUN/2017 order dated 22.03.2022 wherein the issue was remitted to the file of the Assessing Officer with direction the provision for obsolete items be allowed as deduction subject to satisfying by the Assessing Officer that the valuation is done based on the principle that at cost or market price or net realizable value, whichever is less. The relevant para 13 and 14 of the said order of the Tribunal (supra) are reproduced hereunder :-*

*“13. We have heard the rival contentions and perused the record. The issue in the present ground of appeal relates to the allowance of provision for obsolescence of finished goods and spares. There can be no dispute that inventory should be valued either at cost or market price, whichever is lower. In the present case, the appellant company followed inventory valuation policy, based on which item-wise analysis was carried out to determine whether a particular item or a part of finished goods has become obsolete or not and it also adopted a methodology for identification of obsolete finished goods, etc. Thus, the provision for obsolete items is clearly allowable, in view of the settled position of law that inventory should be valued at cost or market price whichever is lower in view of decision of Hon'ble Bombay High Court in the case of Alfa Laval India Vs. DCIT 266 ITR 418 is clearly applicable, wherein the Hon'ble Bombay High Court has held as under:*

*“8. In the present case, there is no dispute that the duly certified auditor's report placed before the AO clearly justified valuation of obsolete items at 10 per cent of cost. There is no dispute that the assessee is entitled to value the closing stock*

*at market value or at cost whichever is lower. It is also not in dispute that the value of the closing stock has been taken as the value of the opening stock in the subsequent year. Moreover, it is also not disputed that the obsolete items were in fact sold in the subsequent year at a price less than 10 per cent of the cost. Under the circumstances, it could not be said that the valuation of the obsolete items done by the assessee and certified by the auditors was not proper or arbitrary. The AO in fact has arbitrarily valued the items in question at 50 per cent of the cost without disclosing the basis of such valuation. The AO had not doubted the correctness of the certificate of the auditors regarding the valuation of obsolete items. The summary of the obsolete items were before the AO. There is nothing on record to show that the assessee was called upon to furnish the list of obsolete items or that the assessee was called upon to establish that the items were not moving for 3 years. Under these circumstances, it could not be said that the assessee has failed to furnish list of obsolete items and failed to establish that the said items were not moving. In the absence of any basis for valuing the obsolete items at 50 per cent of the cost, the Tribunal could not have upheld the findings of the AO on the ground that the list of obsolete items were not produced by the assessee. Accordingly, we answer the question No. 1 in the negative, that is, in favour of the assessee and against the Revenue.”*

*14. In the present case, though the appellant made a provision for obsolescence of stock of finished goods following a methodology but it was not demonstrated before us that there was no under-valuation of the finished goods or spares and the excess provision, if any, was written back in the succeeding year or in the year of sale of obsolete stock, etc. nor was it demonstrated that obsolete stock was valued at lower of cost or net realizable value. In the circumstances, in principle, we hold that the provision for obsolete stock is allowable but it requires to be satisfied that the value of obsolete items of finished goods is valued on the cost or market price whichever is less. In the circumstances, we remand the matter back to the file of Assessing Officer with a direction that the provision for obsolete stock be allowed as deduction subject to satisfying himself that the valuation is done based on the principle that at cost or market price or net realizable value, whichever is less. Thus, this ground of appeal is allowed for statistical purposes.”*

*9. Since there is no change in facts and law in the present case, we remand the issue to the file of the Assessing Officer as similar lines, as indicated in the earlier order of this Tribunal in assessee’s own case for assessment year 2011-12 in ITA No.499/PUN/2017 order dated 22.03.2022. Accordingly, the ground of appeal is partly allowed for statistical purposes.”*

6. On perusal of the finding of this Tribunal, it is noted that there was no change in the facts and circumstances of the case as related to A.Y. 2013-14. Further, the Tribunal remanded the issue to the file of AO with a direction to allow deduction subject to satisfaction whether the valuation of obsolete inventory is made based on the principle at cost or market price or net realizable value, whichever is less. As discussed above, the NFAC,

Delhi confirmed the order of AO for not substantiating whether the obsolete stock was valued at lower of cost or net realizable value vide para 4 of the impugned order. Therefore, following the finding of this Tribunal in assessee's own case for A.Y. 2013-14, we deem it proper to remand the issue to the file of AO for its fresh consideration to decide the issue as indicated by this Tribunal in assessee's own case in A.Y. 2013-14. Thus, ground No. 1 consisting of 1.1 and 1.2 raised by the assessee is allowed for statistical purpose.

7. Ground No. 2 consisting of 2.1 and 2.2 raised by the assessee challenging the action of CIT(A), NFAC, Delhi in confirming the disallowance of Rs.7,72,809/- being 20% of total foreign travelling expenses in the facts and circumstances of the case.

8. We note that the assessee claimed Rs.4,72,00,000/- as conveyance and travel expenses. The AO asked the assessee to provide details of the said claim. On verification of such details as filed by the assessee, the AO found the assessee incurred an amount of Rs.38,64,046/- on foreign travel. According to the AO, the assessee could not produce the details fully and show caused why the proportionate disallowance of 20% of foreign travelling expenses should not be made. In the absence of full details by the assessee, the AO disallowed Rs.7,72,809/- and added to the total income of the assessee. The CIT(A) confirmed the same.

9. Before us, the ld. AR submits that the details were submitted before the AO, but however, the AO proceeded to disallow on the basis of estimation which is not justified. We note that the assessee submitted details regarding the claim of conveyance and travel expenses in the proceedings. The AO asked to submit the supporting evidence on chosen

sample to an extent of Rs.11,51,000/- and admittedly there was no evidence on such query by the AO. The AO disallowed on estimation basis without giving any reason, but admittedly, there was no evidences as sought by the AO with regard to sample to an extent of Rs.11,51,000/- and in view of the same, we restrict the addition to Rs.2,00,000/-, thus, the order of CIT(A) is modified. Thus, ground No. 2 consisting of 2.1 and 2.2 raised by the assessee is partly allowed.

10. In the result, the appeal of assessee is partly allowed for statistical purpose.

Order pronounced in the open court on 09<sup>th</sup> August, 2023.

Sd/-  
(Inturi Rama Rao)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 09<sup>th</sup> August, 2023.

रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The concerned CIT, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच, पुणे / DR, ITAT, “B” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune