

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.2023/Kol/2018
Assessment year: 2012-13

ITO, Ward-12(4), Kolkata.....Appellant

vs.

M/s Subhlaxmi Chem Pvt. Ltd.....Respondent
C-452, Bagri Market,
71, BRBB Road,
Kolkata-1.
[PAN: AAHCS1598R]

I.T.A No.1665/Kol/2018
Assessment year: 2012-13

M/s Subhlaxmi Chem Pvt. Ltd Respondent
C-452, Bagri Market,
71, BRBB Road,
Kolkata-1.
[PAN: AAHCS1598R]

vs.

ITO, Ward-12(4), Kolkata..... Appellant

Appearances by:

Shri Raja Sengupta, Sr. DR, appeared on behalf of the appellant.

Shri B. C. Jain, FCA, appeared on behalf of the Respondent.

Date of concluding the hearing : August 08, 2023

Date of pronouncing the order : August 08, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The captioned are cross-appeals, one by the assessee and the other by the revenue against the order dated 08.06.2018 of the Commissioner of Income Tax (Appeals)-4, Kolkata [hereinafter referred to as the 'CIT(A)']

passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act'). First, we take up the revenue's appeal in ITA No.2023/Kol/2018.

2. ITA No.2023/Kol/2018 – The revenue in this appeal has taken the following grounds of appeal:

“1. That the ld. CIT(A) had erred in allowing relief to the assessee in respect of the addition of Rs.1,79,00,000/- on account of share application money pending allotment.

2. That the ld. CIT(A) had erred in allowing relief to the assessee in respect of the addition on account of under valuation of closing stock and restricting the addition to Rs.7,41,989/-.

3. That the appellant craves for leave to add, alter or amend any of the grounds of appeal before or at the time of hearing.”

3. **Ground No.1** – The revenue vide Ground no.1 has contested the action of the CIT(A) in deleting the addition of Rs.1,79,00,000/- on account of share application money pending allotment.

4. The ld. DR, in this respect, has been fair enough to admit that the assessee during the year has neither received any share application money nor allotted any share against the alleged share application money nor converted the said share application money into unsecured loans. The alleged share application money was received in the past years. Some of the share application money was converted into unsecured loans in the subsequent years. Therefore, the ld. CIT(A) was justified in deleting the addition on account of share application money for the assessment year under consideration.

5. **Ground No.2** – Vide Ground No.2, the revenue has agitated the action of the CIT(A) in deleting the addition made by the Assessing

Officer on account of valuation of closing stock and restricting the addition to Rs.7,41,989/-.

6. The ld. counsel for the assessee, in this respect, has brought out attention to the impugned order of the CIT(A) to submit that the ld. CIT(A) in this respect has relied upon the remand report of the Assessing Officer. The relevant part of the remand report is reproduced as under:

"2. Addition of Rs.4,23,45,702/- on account of under valuation of closing stock -

During the course of assessment proceedings, A.O. had made addition of Rs. 4,23,45,702/- on account of under valuation of closing stock. A.O. noticed that the total quantity of closing stock was 8,47,083.45 meters which was valued at Rs. 40,87,000/, That means the per unit value of closing stock was Rs. 4.82 which was much less than the cost of production of Rs. 54.81 per unit. Accordingly, A.O. calculated the undervaluation of closing stock at Rs.4,23,45,702/- (49.99 x 8,47,083.45) and added back the same to the total income of the assessee.

During the course of remand report proceedings, it was found that as per Tax Audit report & Balance Sheet of the assessee for the financial year 2011-12, the actual quantity of closing stock of finished grey fabrics was 65,590.00 meters valuing Rs. 40,37,000/- and that of finished fabrics was 14,377.50 meters valuing RS. 7,41,989/- It appears that A.O. had miscalculated the quantity of annual closing stock by adding monthly closing stocks together, which is wrong.

It was further noticed that, while calculating the net profit in P/L account, assessee has taken the closing stock value (Rs. 40,87, 000/-) of grey fabrics only. Assessee has suppressed the closing stock value of finished fabrics of Rs.7,41,989/- while arriving at its net profit in P/L account. The said facts are clear from the schedule "M" of P/L account of assessee and Annexure "G" of Tax Audit Report (Copy enclosed). In that way assessee suppressed income to the tune of Rs.7,41,989/- by underreporting its closing stock. Hence, undervaluation of closing stock was found to be Rs, 7,41, 989/- and not Rs, 4,23,45,702/-."

The Id. CIT(A) considering the aforesaid remand report of the Assessing Officer, wherein, the Assessing Officer has duly pointed out the mistake committed by the then Assessing Officer in calculating the value of the closing stock has deleted the impugned additions. The Id. DR could not point out any defect or infirmity in the said order. The Id. CIT(A) rightly deleted the addition so made by the Assessing Officer.

7. **Ground No.3** is general in nature.

8. Therefore, there is no merit in the appeal of the revenue and the same is dismissed.

9. Coming to the assessee's appeal, the sole issue raised by the assessee in its appeal is relating to the sustaining of the addition of Rs.7,41,989/- out of the addition made by the Assessing Officer on account of under-valuation of closing stock.

10. The Id. counsel has invited our attention to the page B-10 of the paper-book which is the copy of 'notes forming part of the balance sheet and profit and loss account' to submit that there was a typing mistake in the remand report on the part of the Assessing Officer in taking up the figures of the closing stock as the Assessing Officer missed the figure of Rs.7,41,989/- out of the closing stock of finished fabrics. The Id. counsel, in this respect, has requested that the matter be restored to the Assessing Officer for verification of the aforesaid fact.

11. In view of this, the matter on the limited issue relating to the verification of the figure of Rs.7,41,989/- on account of closing stock is restored to the Assessing Officer with a direction to verify the above contention and if the same is found correct then no addition will be

warranted. With the above observation, the appeal of the assessee is treated as allowed for statistical purposes.

12. In the result, the appeal of the revenue is hereby dismissed, whereas, the appeal of the assessee is treated as allowed for statistical purposes.

Kolkata, the 8th August, 2023.

Sd/-

[डॉक्टर मनीष बोरड /Dr. Manish Borad]

लेखा सदस्य /Accountant Member

Sd/-

[संजय गर्ग /Sanjay Garg]

न्यायिक सदस्य /Judicial Member

Dated: 08.08.2023.

RS

Copy of the order forwarded to:

1. ITO, Ward-12(4), Kolkata
2. M/s Subhlaxmi Chem Pvt. Ltd
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches