

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH, COCHIN**

Before Shri Sanjay Arora, Accountant Member and
Shri Manomohan Das, Judicial Member

ITA No. 869/Coch/2022
(Assessment Year: 2017-18)

Babu Sebastain
19/348/1B, Puthur House
Poothole, Thrissur 680004

Asst. CIT,
Circle- 2(1)
Thrissur

vs.

[PAN:AJAPS9036R]
(Appellant)

(Respondent)

Assessee by: Shri Anil D. Nair, Advocate
Revenue by: Smt. J.M. Jamuna Devi, Sr. D.R.

Date of Hearing: 13.09.2023
Date of Pronouncement: 31.10.2023

ORDER

Per Sanjay Arora, AM

This is an Appeal by the Assessee directed against the Order dated 22.6.2022 by the Commissioner of Income Tax (Appeals), Income Tax Department [CIT(A)], dismissing the assessee's appeal contesting his assessment under section 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') dated 20.11.2019 for Assessment Year (AY) 2017-18.

2. The short question arising in the instant appeal is the correct application of section 145A of the Act, reading as under, in the given facts of the case, i.e., given that there is no change in the assessee's regular method of accounting and valuation of inventories of goods, so that the purport is the correct computation of income by way of profits and gains of his business under the Act:

Method of accounting in certain cases.

145A. For the purpose of determining the income chargeable under the head "Profits and gains of business or profession",—

(i) the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

(ii) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

.....

Explanation 1.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.

3. The assessee, a dealer in automobile spares, was during the course of assessment proceedings found to be following exclusive method of valuation of the inventories of his said business. The same being inconsistent with s. 145A of the Act, which requires, for the purpose of computation of business income, valuation of purchases and sales of goods and services and, accordingly, inventories at the beginning and end of the accounting period, at inclusive of all input taxes (by whatever name called), adjustment to the reported profit, returned at Rs. 25,75,870, had to be carried out. The other limb of s. 145A, i.e., inclusive of all costs incurred to bring the said goods and services to the place of location and condition as on the date of their valuation, was admittedly followed.

The assessee's explanation was that the said change would not impact his trading results inasmuch as the input taxes, excluded hitherto, would form part of the input costs, as indeed their realisation on sales, as receipt (income), cancelling each other; the difference (in the volume of the purchase and sale) being distributed proportionately over the opening and closing stock. A revised trading accounton application of section 145A of the Act, exhibiting the gross profit at Rs.34,24,570, i.e., the same as per his regular accounts, was prepared. The same did not find acceptance with the Revenue authorities, who valued the assessee's closing stock u/s.145A of the Act at Rs.68.36 lakhs, as against Rs.59.11 lakhs as per his accounts and, accordingly, effected an addition for Rs.9,24,301. Reliance was placed on the

decision in *Melmould Corporation vs. CIT* [1993] 202 ITR 789 (Bom). Aggrieved, assessee is in appeal.

4. We have heard the parties, and perused the material of record.

4.1 The AO has, applying section 145A, found the assessee's closing stock-in-trade for the year to be undervalued by Rs. 9.24 lacs. There is no dispute or quarrel on this. *Why, however, we are at loss to understand, section 145A is not applied, similarly, to the opening stock as well?* We find no answer thereto in the orders of the Revenue authorities. Why? Even otherwise incumbent inasmuch as the mandate of s.145A cannot be applied partly or selectively, it becomes more so when the assessee raises the same – to, quizzically, no answer by the Revenue. It needs to be appreciated that valuation of inventories at inclusive of all inputs costs and duties is only in consequence of valuation, like-wise, of purchases and sales. Adopting separate methods, viz., inclusive for inventories and exclusive for turnover, or different methods for opening and closing stock, would lead to distorted trading results. Further, it is only a uniform application, which the law prescribes, that would enable determination of the variance in profit consequent to the application of section 145A, i.e., vis-a-vis the assessee's regular, exclusive method. The reported profit being on valuing inventories on exclusive basis, substitution by inclusive method only would yield the difference on account of the said change in the valuation method.

4.2 The basis of the Revenue's case, as it appears to us, is the decision in *Melmould Corp.*(supra) inasmuch as the same is relied upon. The principle laid down therein, and the factual basis for its application, ought to have been clearly specified, which we find absent. We shall, nevertheless, for the sake of completeness of our order, discuss the same. That was a case of a change in the method of valuation of the inventories by the assessee. It was under such a circumstance that the Hon'ble Court held that inasmuch as the opening stock of any year is only the closing stock of the immediately preceding year, altering the opening stock for the year, due to change in

the method of valuation, would lead to a chain reaction. *The change in the valuation of opening stock, i.e., as per the new method, it would be noted, would effectively shift the said change to the preceding year.* The year of change must therefore absorb the effect of that change. There is, however, no change in the method of valuation in the instant case and, two, the assessee is following one that is consistent with the accepted principles of commercial accounting, as further approved by the ICAI, the regulatory body for the profession of Accountancy in India. In fact, even in a case where the assessee's method of accounting was found improper, i.e., as not yielding the true profit of the business, the Hon'ble Apex Court in *British Paints India Ltd.* [1991] 188 ITR 44 (SC) found nothing wrong in the Revenue valuing both the opening and closing stock at the changed, correct method of valuation. The decision is not inconsistent with *Melmould Corp.* (supra) inasmuch as there was, again, no change in the method of valuation of inventories by the assessee, but an adjustment effected to its income on applying the correct method of valuation, which would therefore necessarily require it being quantified vis-a-vis the reported profit for the year, which only could be modified. It is only where the assessee makes a departure from his regular method of reporting income, changing the method of valuation, that, as afore-stated, the same is to find reflection in the accounts of the year of change only. There is, in such a case, a conscious break in the principle advocated by section 145 of the Act requiring a uniform method of keeping accounts, i.e., from year to year. In the facts of the instant case, there has admittedly been no change in the method of valuation of inventories. That is, there is no such break and, therefore, the decision in *Melmould* (supra) shall have no application; there being also, as afore-noted, no deficiency in the assessee's method of accounting.

4.3 There is, accordingly, no reason to compute the profit and gains of the business without also valuing the opening stock for the year u/s. 145A of the Act, as indeed the purchases and sales. The assessee shall, further, be allowed credit for the sum, if any, offered to tax u/s. 145A of the Act, i.e., over and above the profit per the regular

accounts (method of valuation), claimed to be at Rs. 1,95,589. In fact, the assessee claiming the same trading profit, i.e., at Rs. 34,24,570, whether the goods dealt with are valued at gross or net of input levies (refer pgs. 6,7 of the impugned order), is inconsistent with his claim of a difference of rs. 1,95,589 in profit on account of application of s. 145A of the Act. Where so, this could be on account of differential levies incident on the purchases for the preceding year vis-a-vis the current year.

5. The matter, accordingly, is restored to the file of the AO for computing the assessee's profit for the year in strict compliance with section 145A of the Act, allowing credit for any income offered on that count. We decide accordingly.

6. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open court on October 31, 2023 under rule 34 of the Income Tax(Appellate Tribunal) Rules, 1963.

Sd/-
(Manomohan Das)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Cochin, Dated: October 31, 2023

Copy to:

1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

By Order

Assistant Registrar
ITAT, Cochin

n.p.