

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F': NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.2640/Del/2019, A.Y.2015-16)**

Purva Alloys Ltd. Anil Jaiswl & Co. 24/4, The Mill, Kanpur, Uttar Pradesh PIN : 208001 PAN : AAGCP0724K	Vs.	ACIT Ward-20(1), New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	None
Respondent by	Sh. Vivek Vardhan, Sr. DR
Date of Hearing	04/07/2024
Date of Pronouncement	22/07/2024

**ORDER**

**PER AVDHESH KUMAR MISHRA, AM**

The appeal for the Assessment Year (In Short, the 'AY') 2015-16 filed by the assessee is directed against the order dated 29.01.2019 passed by the Commissioner of Income Tax (Appeals)-38, New Delhi [In Short, the 'CIT(A)'].

2. Following grounds have been raised by the appellant/assessee : -

*“1. That the Learned CIT(Appeals) has erred in passing ex parte order even though the written submission was filed in response to notice of hearing.*

*2. That the learned CIT(Appeals) has erred in confirming addition made by the AO on account of difference in opening stock and closing stock whereas there is no difference if considered together with other schedules of the return and balance sheet and is merely difference due to net consumable store consumed taken instead of opening, purchase and closing consumable stores.*

*3. That the learned Assessing Officer has erred in making addition without any basis or evidence even though legally as well as factually the appellant is eligible for all claims and no addition is warranted.*

*4. That the additions as well as assessment order is bad in law as well as on facts and appropriate relief deserves to be allowed.*

*5. That the appellant craves leave to amend, withdraw, revise or introduce any ground of appeal with your honours kind permission.”*

2.1 In nutshell, the addition of Rs.2,49,90,740/- made on the reasoning that the opening stock of the relevant year shown at lesser value in the Income Tax Return (In short, the 'ITR') than the corresponding figure of closing stock of the preceding year is indisputable here.

3. The relevant facts, in brief, are that the appellant/assessee is engaged in the business of manufacturing of iron M.S.Angle, S.S.Patiyan, etc. It filed its ITR of the relevant year on 28.11.2015 declaring loss of (-) Rs.16,24,66,882/-. The case was scrutinized and the assessment was completed at loss of (-) Rs.13,73,99,700/- under section 143(3) of the Income Tax Act, 1961 (In short, the 'Act'). During the course of scrutiny, the AO noticed that the appellant/assessee had shown lesser value of its

opening stock of the relevant year in the Balance Sheet of the ITR than the corresponding figure of closing stock of the preceding year. Therefore, the AO taxed the difference in value of stock of the relevant year vis-à-vis closing stock of preceding year and also the late payment of EPF and ESI. Aggrieved, the appellant/assessee filed appeal before the Ld. CIT(A), who upheld the addition of Rs.2,49,90,790/- only.

4. The case was scheduled for hearing on various dates i.e. 18.04.2022, 12.07.2022, 29.09.2022, 20.12.2022, 15.05.2023, 13.07.2023, 12.10.2023, 11.03.2024 and 04.07.2024; however, the appellant sought adjournments for almost all time on one reasoning or another since 05 years. From the above details, it is seen that this case was scheduled many times for hearing; however, none from the appellant/assessee side argued the case on merit ever except filing written submission once and seeking adjournments almost all time.

5. We heard the Senior Departmental Representative (In short, the 'Sr. DR') at length. Due to consistent non-prosecution from the appellant/assessee side, we have no option except to decide this case on merit based on the written submission of the appellant/assessee and the arguments of the Sr. DR. Accordingly, we proceeded with.

6. The appellant/assessee has filed a detailed written submission along with a paperbook on 12.07.2023. Its submission reads as under: -

“1. That the appellant humbly submit before your honour that the Ld.AO has made addition on account of difference of closing stock of Rs.14,76,27,712/- as on 31.03.2014 and opening stock of Rs.12,27,36,972/- at Rs.2,48,90,740/-

2. Whereas the appellant humbly submits before your honour that the appellant had vide replies appearing on page 1 to 18 of the paperbook had categorically explained that there is no difference or variation in closing and opening of stock.

3. The appellant further humbly submits before your honour the explanation on the differences arrived by the Id. AO as to why the same may not be added in the income of assessee as there being no difference or revenue impact in the ITR and Audited Financial Statement if both the financial years are compared and reconciled.

4. In this regards to above, it is submitted that in the profit and loss account Part-A Profit & Loss of the ITR, there is no column to furnish details of stock of consumables and therefore the amount in question of Rs.24890740/- has been considered in consumption of Stores in S.No-9 to Schedule P & L of the ITR for the AY 2014-15.

**Closing Stock as per Audited Balance Sheet 31.03.2014**

**Schedule-18 to Balance Sheet**

Inventories:

Raw Material	Rs. 50686466.00
Work in Progress	Rs. 9872128.00
Finished Goods	Rs. 62178378.00
Consumable Store	Rs. 24890740.00 at page 148 of the paper book
Total	Rs. 147627712.00

**Figure as per Income Tax Return on A.Y. 2014-15**

Part-A Balance Sheet

II Assets

2. Current Assets:

B-Inventories :

Raw Material	Rs. 50686466.00
Work in Progress	Rs. 9872128.00
Finished Goods	Rs. 62178378.00
Consumable Store	Rs. 24890740.00 at page 106 of the paper book
Total	Rs. 147627712.00

**Part -A – Profit & Loss A/c**  
**Closing Stock as on 31.03.2014**

Raw Material	Rs. 50686466.00
Work in Progress	Rs. 34762868.00** at page 106 of the paper book
Finished Goods	Rs. 62178378.00
Consumable Store	Rs. 24890740.00 at page 106 of the paper book
Total	Rs. 147627712.00

**Note 25: Cost of Material consumed as per Profit & Loss A/c of Audited Financial Statement as on 31.03.2014 at page 149 of the paper book:**

**Opening Stock**

Raw Material	74,556,511
Consumable Store	14,858,050

**Purchases:**

Raw Material	11,78,031,670.74
Consumable Store	23,461,513.74

**Closing Stock**

Raw Material	50,686,466
Consumable Store	24,890,740

5. \*\*As there being no option to show separately the opening and closing stock of Consumable Stores in the ITR the same has been

included as Closing Stock of Work-in-progress as work in progress of Rs.34,762,868.00 in the ITR at page 107 of the paperbook which includes the Closing Stock of Consumable Stores of Rs.24,890,740/- and work in progress of Rs. 98,72,128/- as also appearing in the audited financial statements at page 149 of the paperbook as closing stock of consumable store under the head Cost of Material Consumed and as closing stock of work in progress under the head Changes in Inventory at page 149 of the paperbook and if these both figure are clubbed, the amount will be Rs.34,762,868.00/-.

6. Whereas, the opening stock of Consumable Stores of Rs. 14,858,050 has been included in Opening Stock of Finished Goods of Rs. 16538077 (1680027 Finished Goods + 14858050 Consumable Stores) at Sl.No.5 of P&L in ITR at page 108 of the paperbook and the same is also verifiable from the Audited Financial Statement under the head Inventories being Part of Balance Sheet in Note 18 as Finished Goods and Consumable Stores at 1680027 and 14858050 respectively at page 149 of the paperbook.

7. And Purchase of Consumable Store of Rs. 23461513 has been included in the Purchases of Rs. 201493184 (Raw Material 178031670 and Consumable Store 23461513 at Sl.No.6 of the P&L of ITR at Page 108 and same is also verifiable from the Audited Financial Statement under the head Cost of Material Consumed in Note 25 to Profit and Loss of Audited Financial Statement at page 149 of the paperbook.

8. The above closing balance of Consumable Stores of Rs. 24,890,740/- which is the difference as per Id.AO in the closing and opening stock of inventories as included in closing balance of inventories at Rs. 1,47,627,712.00 in the audited balance sheet as on 31.03.2014 below:

Closing Stock as per Audited Balance Sheet 31.03.2014

Schedule-18 to Balance Sheet

**Inventories:**

Raw Material	Rs. 50686466.00
Work in Progress	Rs. 9872128.00

Finished Goods	Rs. 62178378.00	
Consumable Store	<u>Rs. 24890740.00</u>	at page 148 of the paper book
Total	Rs. 147627712.00	

9. The same has also been considered and included in the opening stock inventory as on 01.04.2014. The same is being demonstrated and explained as under:

**Stock as per Audited Financial Statements 31.03.2015**

(Schedule-5 to Balance Sheet)

**Inventories**

<b>Particular</b>	<b>Stock as on 31.03.2015</b>	<b>As on 31.03.2014</b>
Raw Material	27475611.00	Rs. 50686466.00
Consumable Store	20272662.00	<u>Rs.24890740.00</u>
Finished Goods	<u>10278373.00</u>	<u>Rs. 72050506.00*</u>
Total	<u>58026646.00</u>	<u>Rs. 147627712.00</u>

\*72050506.00= (9872128 work in Progress + 62178378 Finished Goods)

**Cost of Material Consumed as on 31.03.2015 (Note 12 of Audited Balance Sheet) appearing at page 61 of the paper book:**

Opening Stock of Raw Material	<b>(A)</b>	Rs. 50686466.00
(As per Schedule-12 to Audited Financial Statements)		
Add: Purchases during the year	<b>(B)</b>	<u>Rs. 283165979.00</u>
(As per Schedule-12 to Audited Financial Statements)		

**Total** **(A+B)** Rs. 333852445.00

Less: Closing stock of Raw Material **(C)** Rs. 27475611.00  
(As per Schedule-12 to Audited Financial Statements)

**Cost of Material Consumed** **(A+B-C)** **Rs. 306376834.00**

**Change in Inventory (Note 11 of Audited Balance Sheet) appearing at page 60 of the paper book:**

Opening Stock of Finished Goods & WIP	<b>(D)</b>	Rs. 72050506.00
Less: Closing Stock of Finished Goods & WIP	<b>(E)</b>	Rs. 10278373.00
Change in Inventory (D-E)	<b>(F)</b>	Rs. 61772133.00

10. Your honour may please very kindly be appreciate that Change in inventory represents difference between opening and closing stock of Finished Goods and Work in Progress and Cost of Material Consumed represent the consumption from the opening, purchase and closing stock of raw material. If both Cost of Material Consumed (A+B-C) of Rs.306376834.00 as above and Change in Inventory (D-E)=(F) of Rs.61772133.00 are clubbed/summed up would result to Rs. 368148967/- as net figure shown in the ITR at Sl.No. 6 being Purchases of Part A- P&L of ITR at page 25 of the paperbook and zero/nil balances of opening and closing stock at Sl.No. 3 & 4 of Part A-P&L of ITR at page 25 and 24 of the paperbook.

11. Therefore, the appellant while filing the ITR has considered the net balance of opening, purchase and closing of raw material and finished goods in Purchases at SL.No. 6 at Rs. Rs. 368148967/- at page 25 of the paperbook.

12. Similarly, the Consumable Stores opening, purchases and closing balances has also been considered at SI.NO. 9 in Consumption of Stores & Spare Part at Rs.41654629/- and the closing balance of Rs.24890740.00 which the Id.AO has alleged to be difference in opening balance as on 01.04.2014 and closing balance as on 31.03.2014 has also been considered in SI.NO. 9 Consumption of Stores & Spare Part at Rs.41654629/-. The appellant is furnishing herewith the reconciliation of figure arrived in Point No-9 in Schedule P & L of Return as being furnished as under:

Opening Stock of Consumable Stores	Rs. 24890740/-*
Add: Purchases of Consumable Stores	Rs. 37036551/-
Less: Closing Stock of Consumable Stores	<u>Rs. 20272662/-*</u>
<b>Consumption of Stores</b>	<b><u>Rs. 41654629/-**</u></b>

\*(The details of above Consuable Stores are part of Inventories at Note No. 5 of the Audited Financial Statement appearing at page 59 of the paper book)

13. The Consumable Store Consumed of Rs. 41654629/-as above is appearing under the head Manufacturing Expenses (Note 14 to P& L A/c) in audited financial statement as on 31.03.2015 at page 62 of the paperbook. Whereas in the ITR the consumption of stores as above of Rs.41654629/- has been shown at Sl.No. 9 of the ITR as Consumption

*of Stores and Spare Parts being Part A-P&L of ITR at page 25 of the paperbook.*

*14. During the AY 2015-16 in the ITR, the appellant has shown the net balances in purchases of raw material at Sl.No 6 of Part A- P&L and Sl.NO.9 of Part A-P&L and consumable stores at Sl.NO.9 of Part A-P&L at page 25 of the paperook instead of opening and closing stock in the P&L of ITR at page 25 & 24 of the paperbook and inventories of ITR at page 23 of the paperbook. Whereas the Opening and Closing balance of stock, Cost of Material Consumed and Consumption of Consumable Stores in Manufacturing Expenses is appearing in the Audited Financial Statement at page 59, 61 and 62 of the paperbook.*

*15. However, there is no revenue impact on the ITR by filing net figures instead of gross balances in the respective schedule of P&L and Balance sheet in the ITR as explained above.”*

7. The Sr. DR placing emphasis on the assessment order and impugned appellate order prayed for dismissal of the appeal. It was argued that the appellant/assessee has shown opening stock valued at Rs.12,27,36,972/- on 01.04.2014 whereas the closing stock of the preceding year as per the ITR was Rs.14,76,27,712/-. It was argued that as per the accounting principles, the value of closing stock of preceding year has to be taken as opening stock of the subsequent year. However it was not so in this case. Therefore, the difference in value of the stock had been rightly taxed by the Assessing Officer (In short, the 'AO').

8. It was submitted by the appellant/assessee that the CIT (A) erred in ignoring its submission and deciding the case on merit based on its submission filed during first appellate proceedings. Thus, it was submitted that the ex-parte appellate order was not justified. Further, the

appellant/assessee claimed that it followed the accounting principles while recording the value of stock in regular books of account. Since there was no detailed columns to mention the break-up of stock-in-trade including consumable in the ITR; therefore, some of the inventories had been clubbed together in one column of the ITR in one year whereas the same not in the subsequent year (it was bifurcated in two columns of the ITR of the subsequent year). Therefore, the appellant/assessee's claimed that there was no difference in the closing stock of the preceding and opening stock of the relevant year as per the ITR. It was categorically submitted by the appellant/assessee that the part-A of the Balance Sheet in the ITR did not contain any column to furnish details of stock of consumables and therefore the net effect of consumables of Rs.2,48,90,740/- was shown in the Profit & Loss account whereas the consumables were shown in different columns in the Balance Sheet in the ITR. It was submitted by the appellant/assessee that if its Balance Sheet and Profit & Loss Account was examined in entirety; then the closing stock and consumables taken together would reveal the truth that there was no difference in the value of the closing stock of the preceding year vis-à-vis the value of opening stock of the relevant year.

9. Heard the Sr. DR and perused the case record. In the interest of justice and considering all the afore-stated observations, we are of the considered view that the CIT(A) has not decided the case on merit

considering the submission of the appellant/assessee. Therefore, the appellant/assessee deserves reasonable opportunity of being heard to make shortcomings or non-compliances. In view thereof, without offering any comment on merit of the case we deem it fit to set aside the impugned order and remit the matter back to the file of the CIT(A) for de-novo consideration. The appellant/assessee should ensure compliances during the set-aside proceeding before the CIT(A). The Ld. CIT(A) is also required to provide reasonable opportunities of being heard to the appellant/assessee before deciding the case on merit.

10. In view of the above, each ground does not require separate & specific finding; therefore, all grounds being related the core issue are treated disposed of accordingly.

11. In view of the above, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in open Court on 22<sup>nd</sup> July, 2024

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

Dated: 22/07/2024

*Binita, Sr. PS*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. Sr. DR

**Sd/-**

**(AVDHESH KUMAR MISHRA)  
ACCOUNTANT MEMBER**

A.R.,ITAT,  
NEW DELHI