

आयकर अपीलीय अधिकरण “सी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, CHENNAI

माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI ABY T. VARKEY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.9/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s.SFC Solutions India (Fluid) Pvt. Ltd. <i>[Formerly known as Cooper Standard Automotive India Pvt.Ltd.]</i> 3A, Ford Supplier Park, Killakarani Village, Melrosapuram Post Via Singaperumal Koil -603 204. Chengalpattu.	बनाम/ Vs.	ACIT Corporate Circle-1(2) Chennai.
स्थायी लेखा सं./ जी आइ आर सं./ PAN/GIR No. AABCC-3665-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri Sumant Chadha (FCA)-Ld.AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri R.Clement Ramesh Kumar(CIT) -Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	31-07-2024
घोषणा की तारीख / Date of Pronouncement	:	12-08-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 20-09-2023 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 30-12-2016. The registry has noted a delay of 44 days in the appeal, the condonation of which has been sought by Ld. AR on the strength of affidavit of Director of the

assessee. Considering the period of delay and keeping in mind the principles of natural justice, the delay is condoned and we proceed with disposal of the appeal on merits.

2. The grounds taken by the assessee read as under:-

1. Ground No.1: Disallowance of Warranty expense amounting to Rs.20,14,70,318/-.

1.1 On the facts and circumstances of the case and in law, learned CIT(A) has erred in invoking provisions of section 37 of the Act stating that expenditure is allowable only when the expenditure incurred/paid is pertaining to the corresponding year and directly related to revenue of the subject year under consideration. The Ld. CIT(A) has also erred on the facts as well as on the law while not appreciating that the amount Warranty expenses has been computed on the basis of actual claim and was not merely ad-hoc estimation.

1.2 On the facts and circumstances of the case and in law, the learned CIT(A) has erred in placing reliance upon the Apex court decision of CIT Vs. Rotork Controls India Limited (2009) 314 ITR 62 while concluding that non-creation of Warranty provision in the year of sale affected in earlier accounting periods would lead to disallowance of expenditure claimed in subsequent accounting period in accordance with the provisions of Companies Act, 2013 and Accounting Standard. Ld. CIT(A) has erred on facts as well as on the law and failed to appreciate that there was no reasonable historic data available for warranty in the Appellant's case which is a prerequisite for debiting an expense on provisional basis.

1.3 On the facts and circumstances of the case and in law, learned CIT(A) has failed in appreciating the fact that the liability of Rs.20,14,70,318/- recognized by the appellant during the year under consideration is in accordance with the accounting standards and is a deductible expense under Section 37 of the Act in the year of its accrual.

Ground No.2: Disallowance of employees contribution to PF and ESIC amounting to Rs.30,61,363/-.

2.1 On the facts and in circumstances of the case and in law, Id. CIT(A) erred in disallowing on payment of employee's contribution amounting to Rs.30,61,363 which is paid within the due date as prescribed under section 43B of the Act.

2.2 On the facts and in circumstances of the case and in law, the Id. CIT(A) has failed in appreciating the fact that the amendment to Section 43B and 36(va) of the Act is brought with effect from 01-04- 2021 as notified by CBDT in Memorandum of Explanation of Finance Act, 2021, thus, the amendment shall take effect from AY 2021-22 and subsequent assessment years, not impacting the previous year under consideration.

2.3 On the facts and circumstances of the case and in law, the learned CIT(A) has erred in placing reliance upon the Apex court decision of M/s. Checkmate Services Pvt. Ltd. Vs. CIT where intent of insertion of second proviso to section 43B of the Act was not to alter the position of law impacting the assessee's adversely.

As is evident, two issues fall for our consideration i.e., (i) disallowance of warranty expenses; & (ii) disallowance of Employees' contribution towards PF & ESI.

3. The Ld. AR advanced arguments with the help of documents as placed in the paper book. The Ld. CIT-DR has supported the orders of lower authorities. Having heard rival submissions and upon perusal of case records, our adjudication would be as under. The assessee being resident corporate assessee is stated to be engaged in manufacturing of fluid and break line system which is used mainly in cars.

Assessment Proceedings

4.1 During the course of assessment proceedings, it transpired that the assessee claimed 'provision for warranty claim' for Rs.2014.70 Lacs which was debited as exceptional items. The said claim was towards field failures of one component i.e., 'PAS Hose' which were supplied by the assessee to its customer M/s. Ford India. M/s Ford India recovered warranty cost from the assessee company for the damages. The Ld.AO noted that the assessee was regular supplier of PAS high pressure hose for various cars manufactured by M/s. Ford India. The cars were being sold in India as well as exported to other countries. During the usage of cars, if any defects / mal-function would arise due to defective parts supplied by the vendors, M/s Ford India will recall all the vehicles from customers through dealer channels at the respective places and get it rectified by replacing the defective parts. Based on one such field usage failure, M/s Ford India recalled its cars manufactured between the periods from January, 2010 to November, 2011. The total vehicles produced with defective parts were 66,244 cars. In those defective cars, PAS hose components were sold by the assessee, the value of which amount to Rs.38.54 crores (\$ 62,02,331). Out of the above, 55% of the replacement cost had to be borne by the assessee which worked out to \$34,11,282.

4.2 In this regard, the assessee was required to produce necessary evidences for the above claim. The assessee furnished various documents to support the same. The same include letter dated 22-10-2013, wherein Ford India extended its intent for the first time to pursue warranty claim for the vehicles manufactured from January, 2010 to November, 2011 with an estimated cost of US \$ 6.2m (Rs.38.54 Crores Approx). The assessee also furnished the debit note issued by M/s Ford India on 26-03-2014. However, the said debit note was held to be merely an after-thought on the ground that it was not signed.

4.3 Based on subsequent correspondences carried out by the assessee with M/s Ford India on the issue of warranty claim, the Ld. AO held that negotiations, on account of this claim, were going on till June, 2014. Therefore, the aforesaid liability was determined only by 30-06-2014 which pertain to AY 2015-16 and the liability was not ascertained during this year i.e., AY 2014-15.

4.4 To confirm the claim, a notice u/s.133(6) was issued by Ld. AO to M/s Ford India who confirmed that warranty claim was ascertained for AY 2015-16 and the said amount as received from the assessee was offered to tax in AY 2015-16.. They also furnished bank statements wherein this amount was paid by the assessee on 04-07-2014. On the basis of the same, Ld. AO alleged that the impugned claim was not an ascertained liability in this year and accordingly, it was disallowed.

4.5 Another disallowance as made by Ld. AO was late payment of Employees' Contribution to PF / ESI. It was noted that the assessee defaulted in aforesaid contributions to the extent of Rs.30.61 Lacs. Accordingly, the same was added to the income of the assessee.

Appellate Proceedings

5.1 During appellate proceedings, the assessee filed written submissions and drew attention to the communication dated 22-10-2013 from M/s Ford India to the assessee showing their intention to claim warranty compensation as per contractual agreement for defective equipments supplied by the assessee. The assessee assailed the view taken by Ld. AO. The submissions of the assessee were subjected to remand proceedings. M/s Ford India, vide letter dated 09-10-2017, verified the debit note as issued to the assessee. A certified copy of the debit note along with relevant copy of bank statement and agreement made for warranty claim was also furnished.

5.2 However, in the remand report, Ld. AO reiterated that there was no scientific basis for making impugned provision and he accordingly, justified the addition. The assessee filed rejoinder against remand report of the Ld. AO and submitted that impugned amount was an actual liability which crystallized during the year and it was not an estimated liability as assumed by Ld.AO.

5.3 The Ld. CIT(A) observed that the expenditure pertain to sales effected during Financial Year 2010-11 whereas the claim was made in Financial Year 2013-14. The genuineness of payment of warranty claim was doubtful. The expenditure did not pertain to sale effected during Financial Year 2013-14 and matching principle of accounting was violated. Accordingly, the action of Ld. AO was confirmed.

5.4 The default in Employees' contribution to PF & ESI was confirmed in the light of the decision of Hon'ble Supreme Court in the case of **M/s Checkmate Services P. Ltd. Vs CIT (143 Taxmann.com 178; dated 12.10.2022)**.

5.5 Aggrieved, as aforesaid, the assessee is in further appeal before us.

Our findings and Adjudication

6. Upon perusal of factual matrix, we are of the considered opinion that lower authorities have gone wrong on facts by treating the claim of the assessee as mere provision of warranty claims. It could be seen that the assessee has supplied auto components to one of its customers i.e., M/s Ford India under contractual terms. If certain defect was found in the supplies, the assessee was to compensate the same to its customer as per contractual terms. Therefore, it was quite possible that sales were affected by the assessee in one year whereas the defect claims could arise in subsequent years. In such a scenario, the matching concept of accounting would have no applicability. In our considered opinion, if a definite liability has arisen against the assessee in a particular year for which the assessee has to make good the loss, then the claim would be allowable in that year itself though the quantification of the same may not have been finalized. Nevertheless, the liability would be ascertained liability for the assessee in the year in which the claim would arise.

7. It could also be noted that as per contractual terms, if any defects / mal-function would arise due to defective parts supplied by the vendors, M/s Ford India will recall all the vehicles from customers through dealer channels at the respective places and get it rectified by replacing the defective parts. Based on one such field usage failure, M/s Ford India has recalled its cars manufactured between the periods from January, 2010 to November, 2011. The total vehicles produced with defective parts were 66,244 cars. In those defective cars, PAS hose components were sold by the assessee, the value of which amount to Rs.38.54

crores (\$ 62,02,331). Out of the above, 55% of the replacement cost had to be borne by the assessee which worked out to \$34,11,282. The said claim is backed by letter dated 22-10-2013 issued by M/s Ford India wherein M/s Ford India extended its intent to pursue warranty claim for the vehicles manufactured from January, 2010 to November, 2011 with an estimated cost of US \$ 6.2m (Rs.38.54 Crores Approx). The same is further evidenced by debit note dated 26-03-2014 issued by M/s Ford India which has duly been verified by M/s Ford India in response to verification made by Ld. AO during remand proceedings. Ultimately, the claim has been settled by the assessee on 04-07-2014 which is evident by the bank statements. All these documents have also been placed before us in the paper-book. Under these circumstances, it was to be held that the liability for warranty claims was an ascertained liability for the assessee which has crystallized in this year only. Merely because M/s Ford India has offered the same to tax in next year, this fact alone could not jeopardize the claim of the assessee since the allowability of the claim has to be ascertained from the point of view of the assessee. Pertinently, it is also not a case that the assessee has claimed same deduction thereof in subsequent year. Therefore, we direct Ld. AO to allow the impugned claim of the assessee. The corresponding grounds stand allowed.

8. On the issue of PF / ESI, the only submission of Ld. AR is that the said disallowance has to be computed after considering the grace period as allowed under those acts. Considering the same, we direct Ld. AO to re-compute the disallowance after allowing grace period as provided under respective acts. The assessee is directed to furnish the relevant

details. The corresponding ground stand partly allowed for statistical purposes.

9. The appeal stands partly allowed.

Order pronounced on 12th August, 2024

Sd/-
(ABY T. VARKEY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated :12-08-2024
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आदेश की प्रतिलिपि ँ ग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT Chennai.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF