

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE "A" BENCH, BANGALORE**

**Before Shri George George K., Vice President
and
Ms. Padmavathy S., Accountant Member**

ITA No. 1705/Bang/2024 (Assessment Year: 2017-18)		
Essilor India Pvt. Ltd. No. 46, 10th Floor, Prestige Trade Tower, Palance Road High Ground, Sampangi Ramanagr, Bengaluru 560001 PAN – AAACE4623J (Appellant)	vs.	DCIT (OSD), Circle 2(1)(1) BMTc Building Koramangala Bengaluru 560095 (Respondent)

Assessee by:	Smt. Manasa Ananathan, Advocate
Revenue by:	Shri R.N. Siddappaji, CIT-DR

Date of hearing:	17.10.2024
Date of pronouncement:	21.10.2024

ORDER

Per: Padmavathy S., A.M.

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [CIT(A)] dated 11.07.2024 for Assessment Year (AY) 2017-18.

2. The assessee has raised the following grounds of appeal: -

- “1. That the order dated 11.07.2024 passed by the Commissioner of Income-tax (Appeals) [“CIT(A)”]. National Faceless Appeal Centre under Section 250 of the Income-tax Act, 1961 (“the Act”), to the extent prejudicial to the Appellant, is bad in law and liable to be set aside
2. That the Assessing Officer (“AO”) erred in disallowing a sum of Rs. 1,72,98,009/- claimed by the Appellant under Section 37 of the Act in its

return of income pertaining to "provision for inventory written off due to obsolescence", and the CIT(A) erred in affirming the same.

3. *That the AO and CIT(A) have failed to appreciate the fact that the said provision was voluntarily disallowed in the year in which it was created le., assessment year 2015-16, and therefore, ought to be allowed in the year of reversal as otherwise, it would amount to double taxation, which is unsustainable.*
4. *That the CIT(A) erred in affirming the disallowance on the sole ground that the Dispute Resolution Panel had held that it was not an allowable expense, which the AO followed, without appreciating that the disallowance was unwarranted.*
5. *That the AO and CIT(A) failed to consider the details and submissions made in this regard by the Appellant during the course of appellate proceedings and therefore, the disallowance made is erroneous and bad in law.*
6. *That the CIT(A) erred in not following the decision of this Hon'ble Tribunal passed in the Appellant's own case for assessment year 2018-19, wherein the deduction claimed by the Appellant was allowed.*
7. *That the levy of interest under Sections 234A, 234B and 234C is unsustainable in law and on facts.*

The Appellant submits that the above grounds are independent of and without prejudice to one another.

The Appellant craves leave to add to or alter, by deletion, substitution or otherwise, the above grounds of appeal, at any time before or during the hearing of the appeal.

8. Relief

The Appellant prays that this Hon'ble Tribunal be pleased to allow the appeal and set aside the impugned final assessment order to the extent questioned herein, in the interests of justice and equity."

3. The assessee is a company engaged in the business of trading in ophthalmic lenses, optical matters and processing of semi-finished ophthalmic lenses. The assessee filed its return of income for the year under consideration on 12.10.2017 declaring total income of Rs. 33,10,52,119/-. The case was selected for scrutiny and the statutory notices were duly served on the assessee. Since the assessee had international transactions with its AE, a reference was made to the Transfer Pricing Officer (TPO) in order to determine the arm's

length price of the international transaction the assessee had with its AE. The TPO passed an order u/s. 92CA of the Income Tax Act, 1961 (the Act) proposing a TP adjustment of Rs. 49,45,49,732/- The Assessing Officer (AO) while passing the draft assessment order, besides the TP adjustments also made a disallowance u/s. 14A to the tune of Rs. 4,96,73,157/- and also disallowance of provision for inventory written off due to obsolete/bad stock Rs.1,72,98,009/- and disallowance of interest written off on OG debtors of Rs. 9,66,05,046/-. The assessee filed its objections before the Dispute Resolution Panel (DRP) against the draft assessment order. The DRP upheld the transfer pricing adjustments proposed by the TPO. With respect to the corporate tax addition made by the AO the DRP gave certain directions to verify the claim based on the evidences filed by the assessee. The AO while passing the final assessment order did not consider the DRP directions and retained the addition made on the corporate tax issue without verifying the evidences filed by the assessee. The coordinate bench of the Tribunal while considering the appeal filed by the assessee against the final assessment order ((IT(TP)A No. 448/Bang/2022 dated 21.10.2022) remanded the corporate tax issue back to the AO with a direction to consider the claims in accordance with the directions of the DRP.

4. The AO while passing the order giving effect to the directions of the Tribunal gave relief to the assessee towards TP adjustments and the disallowance made u/s. 14A and sustained the disallowance made towards provision for inventory written off and write off of interest on OG debtors. Aggrieved, assessee filed further appeal before the CIT(A). The CIT(A) gave partial relief to the assessee and deleted the addition made by the AO towards interest write off of OG debtors. The assessee is in appeal before the Tribunal for the second time against the disallowance of write off of provision for inventory due to obsolete/bad stock as upheld by the CIT(A).

5. The learned A.R. submitted that the assessee, during the financial year relevant to AY 2015-16, has made a provision towards obsolete/bad stock to the tune of Rs. 8,78,53,132/-. The assessee in the computation of income did not claim the said amount as deduction and accordingly made the adjustment while arriving at the taxable income for AY 2015-16. The learned A.R. further submitted that the amount written off was subsequently reversed by the assessee during the financial years relevant to AYs 2016-17 to 2018-19. The learned A.R. also submitted that since the assessee did not claim deduction towards the write off during AY 2015-16, the assessee claimed the reversal of provision as a deduction while offering the income to tax during AYs 2016-17 to 2018-19. The learned A.R. brought to our attention that the same issue of reversal of provision not being offered to tax came up for consideration before the Tribunal for AY 2018-19 and the Tribunal has remanded the issue back to the AO with the direction to verify whether the amount was not claimed as a deduction in the year of write off, i.e. AY 2015-16 and allow the claim accordingly. The learned A.R. further drew our attention to the order passed by the AO u/s. 143(3) r.w.s. 254 of the Act for AY 2018-19 wherein the AO has deleted the addition made towards reversal of provision of obsolete/bad stock. Accordingly, the learned A.R. prayed that for the year under consideration also the relief may be granted to the assessee.

6. The learned D.R., on the other hand, relied on the orders of the lower authorities.

7. We have heard the rival contentions and perused the material on record. The claim of the assessee is that the provision made towards obsolete/bad stock amounting to Rs. 8,78,53,132/- was not claimed as a deduction in the year of write off in the computation of income for AY 2015-16. Therefore, the assessee did not offer the reversal of the said provision to tax during AYs

2016-17 to 2018-19 during which the earlier provision made during AY 2015-16 were reversed. The assessee reversed the amount of provision made over three assessment years and during the year under consideration an amount of Rs. 1,72,98,009/- was reversed and the same is claimed as deduction while computing the taxable income. In this regard it is relevant to note the following observations of the AO while passing the order u/s. 143(3) r.w.s. 254 of the Act for AY 2018-19, being one of the assessment years in which the assessee has reversed a portion of the provision made during AY 2015-16: -

“2.2 Disallowance of any other amount allowable as deduction:

(a) During the year under consideration, the assessee had claimed deduction on account of obsolete/bad stock amounting to Rs. 8,78,53,132. The provision was created during AY 2015-16. Out of the total provision created, provision for inventory amounting to Rs. 3,95,34,870/-, Rs. 1,72,98,009/- and Rs. 1,94,54,000/- pertain to assessment years 2016-2017, 2017-2018 and 2018-2019, respectively. The reversal of provision was claimed as ddb u/s 37 of the IT Act for tax computation since the provision was already offered for taxation. But the sum of Rs. 1,94,54,000/- pertaining to AY 2018-19 was disallowed by the AO and it was upheld by the DRP. The assessee submitted before the Hon'ble ITAT that the sum of Rs. 1,94,54,000/- was disallowed even though the submissions were made in this regard.

(b) The Hon'ble ITAT, Bengaluru has remitted the issue of "Disallowance of expenditure of Rs.1,94,54,100/- under the head "any other amount of allowable deduction to the file of AO for fresh consideration with a direction to verify the fact as to whether the amount of provision has already suffered tax and whether the reversal of provision pertains to the amount already suffered tax.

(c) Accordingly, an opportunity of being heard was afforded to the assessee by issue of notice u/s 142(1) dated 09/03/2024. In response to this, the assessee has replied on 13/03/2024

(d) On perusal of the submissions, it is noticed that the assessee during the FY relevant to AY 2015-16 had created a provision on account of obsolete/bad stock amounting to Rs.8,78,53,132/- and has voluntarily disallowed the provision on inventory by offering it to tax in the computation of income for AY 2015-16. The assessee has furnished a copy of income tax return and tax computation sheet in support of its claim. On verification, it is noticed that the contention of the assessee is found to be correct on the ground that the entire provision of Rs.8.78.53,132/-has been

disallowed and added back to the total income in the computation of income for the AY 2015-16 leading to a conclusion that the amount of provision has already suffered tax in the AY 2015-16.

(e) Subsequently, it is noticed that the assessee has started reversing or writing off the provision for Inventory which had suffered tax in AY 2015-16 by claiming deductions in the tax computations for AY 2016-17 to AY 2018-19 and particularly during the year under consideration, the assessee has reversed/written off an amount of Rs.1,94,54,100/- and has claimed deduction in tax computation, Hence, the reversal of provision of Rs.1,94,54,100/- for the AY 2018-19 which has suffered tax in AY 2015-16, is an allowable expenses.”

8. From a perusal of the facts and the findings of the AO it is clear that the assessee has claimed the reversal of provision as a deduction for the reason that the amount was offered to tax in the year in which the provision was created. In our considered view the claim of the assessee has merits and is supported by the verification carried out by the AO while allowing the claim for AY 2018-19. The findings of the AO for 2018-19 also substantiate the fact that the reversal made for the year under consideration is also part of the provision originally made in AY 2015-16. Considering the facts and circumstances of the case we are of the view that the claim of the assessee against the reversal of provision to the tune of Rs.1,72,98,009/- is an allowable claim for the reason that the same stands offered to tax in the year in which the provision was created. Accordingly, the claim of the assessee stands allowed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 21st October, 2024.

Sd/-
(George George K.)
Vice President

Sd/-
(Padmavathy S.)
Accountant Member

Bengaluru, Dated: 21st October, 2024
n.p.

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

By Order

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*Assistant Registrar
ITAT, Bangalore*