

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC-A” BENCH : BANGALORE

BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER

ITA No.1909/Bang/2016
Assessment year : 2007-08

Shri Ashok G Tenginkai, Prop: M/s. G.S. Tenginkai Jewellers, Javali Sal, Hubli. <b>PAN: ABTPT 3158Q</b>	Vs.	The Income-tax Officer, Ward 3(2), Hubli.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sheetal Borkar, Advocate
Respondent by	:	Shri AR.V. Sreenivas, JCIT (DR)

Date of hearing	:	16.02.2017
Date of Pronouncement	:	23.02.2017

**ORDER**

This is an assessee's appeal directed against the order of CIT (Appeals), Hubli dated 26.08.2016 for the assessment year 2006-07.

2. The grounds raised by the assessee are as under:-

- “1. The learned Commissioner of Income-tax (A) erred in passing the order in the manner he did.
2. The learned CIT(A) erred in valuing the inventory on the basis of Average Purchase Cost method as on 31.03.2007 without appreciating the submissions of the appellant that the appellant was consistently following the Average Cost Method since communication of his business i.e. from 1938.

3. The learned CIT (A) ought to have appreciated that the stock of gold ornament of 8,986.107 grms was accepted by the assessing officer who has not noticed any discrepancy either in the stock account or in the books of account for the relevant assessment year.
4. The learned CIT(A) ought to have appreciated the Average Cost Method adopted by the appellant had been accepted by the Department in every assessment proceedings in the past in the case of the appellant since the same stock was considered in the course of survey as also in the scrutiny proceedings.
5. The learned CIT (A) ought to have appreciated that the statement of the appellant was subsequently retracted and same cannot be taken as piece of evidence to make an addition without any collaborate material to support the same. Further the learned CIT (A) erred in not considering the various judicial decisions relied on by the appellant in support of his contention.
6. The learned CIT (A) erred in confirming the levy of interest under sections 234B, 234C of the Act.
7. For these and other grounds that may be urged at the time of hearing of the appeal the appellant prays that the appeal may be allowed.”

3. It was submitted by the Id. AR of assessee that assessee is consistently following the method of valuation of stock on average cost basis including the value of opening stock and the value of purchase during the relevant year. But the AO made an addition by adopting a different method of valuation of inventory i.e. on the basis of only average purchase cost of the present year, excluding the opening stock value and quantity. It is submitted that the method consistently followed by the assessee and accepted by the department is an accepted method and therefore, the action of the AO in adopting a different method is not justified.

4. As against this, the Id. DR of revenue supported the orders of authorities below. He has also drawn our attention to page 3 of the assessment order where the AO has reproduced the reply to Question No.9 of the sworn statement recorded on 23.10.2009 wherein it is stated by assessee that he agrees for the proposed revaluation of closing stock as on 31.3.2007 and agreed to offer additional income of Rs.27,48,869 for AY 2007-08 and pay taxes accordingly. It was submitted that in view of this statement of assessee as per which, he has agreed for this addition, the assessee cannot dispute this addition in appeal. He placed reliance on the judgment of Hon'ble Allahabad High Court rendered in the case of *Sanjeev Agrawal v. Income Tax Settlement Commissioner* as reported in 231 Taxman 71 (Allahabad).

5. I have considered the rival submissions. I find that it is not in dispute that the method of valuation of stock adopted by the assessee consistently and accepted by the department is an accepted method of valuation of stock. Under these facts, the AO is not justified to reject this method of valuation of stock consistently followed by the assessee and accepted by the department and follow a different method of valuation of stock.

6. Regarding the judgment of Hon'ble Allahabad High Court cited by the Id. DR of revenue, I find that as per this judgment, it was held by the Hon'ble Allahabad High Court that the burden lay upon the assessee to establish that statement made by him at the time of survey was wrong and

in fact there was no additional income. In that case, this burden was not discharged by the assessee and therefore, addition made by the AO on the basis of statement in the case of *Sanjeev Agrawal (supra)* was confirmed by the Hon'ble Allahabad High Court. But in the present case, the assessee has discharged his burden by showing that the method of valuation of inventory adopted by the assessee consistently is accepted by the department and it is a valid method and by adopting this method, there is no extra income as stated in statement recorded in course of survey. Therefore, I am of the considered opinion that this judgment of Hon'ble Allahabad High Court is not rendering any help to the revenue in the present case. Hence, I hold that the addition made by the AO by adopting a different method of valuation of stock by arbitrarily rejecting the method of valuation of stock consistently adopted by the assessee for the last 30 years and accepted by the revenue is not justified. Hence, the addition made by the AO is deleted.

7. In the result, the appeal of assessee is allowed.

Pronounced in the open court on this 23<sup>rd</sup> day of February, 2017.

Sd/-  
( A.K. GARODIA )  
Accountant Member

Bangalore,  
Dated, the 23<sup>rd</sup> February, 2017.

/ Desai Smurthy / MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.