

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D", NEW DELHI
BEFORE SHRI A.D. JAIN, JUDICIAL MEMBER
AND
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
I.T.A. No. 1686/Del/2010

1308

A.Y. : 2004-05

ITO Ward-4(3),
Room No. 413-A,
CR Building,
IP Estate, New Delhi
(Appellant)

vs. M/s LPS Bossard Pvt. Ltd.,
AI/134, Safdarjung Enclave,
New Delhi
(PAN/GIR NO. : AAAC12096A)
(Respondent)

Assessee by : Sh. Ved Jain, Advocate
Department by : Ms. Shumana Sen, D.R.

ORDER

PER SHAMIM YAHYA: AM

This appeal by the Revenue is directed against the order of the Ld. Commissioner of Income Tax (Appeals)-VII, New Delhi dated 01.02.2010 pertaining to assessment year 2004-05.

2. The grounds raised read as under:-

"1. The order of the learned Ld. Commissioner of Income Tax (A) is erroneous and contrary to fact and law.

2. On the facts and in the circumstances of the case and in law, the learned Ld. Commissioner of Income Tax (A) has erred in deleting the addition of Rs. 56,55,686/- made by the Assessing Officer on

1

account of disallowance of provision for obsolescence stock.

2.1 The Ld. Commissioner of Income Tax (A) has ignored the fact that the each year is unique in itself and no sale proceeds of scrap for disposing of the obsolescent stock has been offered for taxation in the year as proof of having disposed off the stock.

3. The appellant craves leave to add, to alter, or amend any ground of the appeal raised above at the time of the hearing.

3. In this case Assessing Officer noted that in the accounts the assessee has debited Rs. 56,55,686/- on account of stock of obsolete material. The Assessing Officer raised query in this regard to the assessee to explain the same with supportive documentary evidence. Assessee reply was as under:-

- “1. Stock became rusty due to moisture / otherwise.
2. the stock is not saleable in the market on account of the facts that the user has changed the item where the same was earlier used or that the new and better quality items are being used by the consumers rendering the items in hand unsaleable.
3. the buyer has rejected the lot due to defect in the quality and the material cannot be rectified.”

3.1 Assessing Officer was not satisfied. He observed that assessee has not furnished the details of inventories. Further, Assessing Officer observed that when the user has changed the items why the assessee has purchased those unwarranted items which do not have a demand in the market. Assessing Officer further observed that assessee has not given any instance or produced any debit note from the customer for the rejection of the goods supplied. Assessing Officer further held as under:-

"It is also pointed out here that the assessee is an Importer and goods are purchased by the assessee from its associated companies M/s Bossard Ltd. Fasteners, Switerzland, M/s Bossard Ltd. Taiwan and M/s Bossard France SA, who have its offices abroad. Why the assessee had purchased / imported such goods which were not required in the market or why such goods were not returned to its associated company from whom such expired goods were purchased. Hence, it is apparent that the assessee had obliged its above associated companies by lifting such expired goods, not required in the market in India. Hence the loss of Rs. 56,55,686/- booked by assessee in its books of account by way of obsolescence of stock has no justification and is on filmsy grounds. On further explanation, the assessee has filed a list of inventory considered obsolescence with copies of bills. On going through the inventory and copies of bills, it is noticed that most of bills are of earlier years. I have also gone through the statement of accounts of the assessee (balance sheet and profit and loss account) for assessment year 2003-04



wherein the assessee had also claimed such loss of Rs. 23,02,759/-. Hence, I am of the opinion that all such rusty/expired stock of goods must have written off in the assessment year 2003-04. It is also pertinent to mention here that if the rejected and waste goods sold in the open market as scrap it would have some value for which the assessee has no explanation and has not accounted for the value of such rusty and rejected goods in its books of account. From all such facts, it is apparent that entry of loss of Rs. 56,55,686/- was passed on after thought with a view to suppress its taxable income. Keeping in view all facts discussed above, the explanation tendered by the assessee is not acceptable and the loss of Rs. 56,55,686/- claimed by assessee is disallowed and added to the total income of the assessee."

4. Before the Ld. Commissioner of Income Tax (A) assessee submitted elaborate submissions. The summary of the assessee's submissions in this regard is as under:-

"That assessee has submitted all documents and records based upon which assessee has written off stock for the value of Rs. 56,55,686/- viz; quality test reports of Indian as well as of foreign test laboratories (wherever desired) copies of complaints of the customers, stock ledgers with purchase bills and item-wise details of stock written off.

That Assessing Officer has assigned reasons of rejections which are not based on the relevant facts and altogether ignore the explanation of the assessee has given. The

assessee has sold written off stock during subsequent year with copies of sale invoice were filed alongwith explanation.

That reason of rejection assigned by Assessing Officer have not been correlated to any actual transaction e.g. Assessing Officer has observed that why assessee has made purchases from joint venture partners which are of the defect material whereas there is no such case and Assessing Officer has failed to point out any such case. That Assessing Officer has failed to evaluate the details and documents submitted by the assessee and has rejected the assessee's claim for the sake of disallowance, therefore, rejection of assessee claim of Rs. 56,55,686/- of stock obsolescence is unjustified and addition be deleted.

It is pertinent to note that assessing authorities has been allowing the claim of stock obscence both in earlier part and in subsequent assessment year.

During assessment year 2003-04 assessee claimed stock obsolescence of Rs. 23,02,759/- and no disallowance was made by Assessing Officer. Copy of assessment order u/s. 143(3) of A.Y. 2003-04 is enclosed for ready reference along with copy of audited accounts (ref schedule no. 16 of balance sheet). Similarly Rs. 20,40,342/- was written off during the A.Y. 2006-07 as obsolete stock (ref. Schedule 14 of the balance sheet) and no disallowance on this issue has been made as per assessment order u/s. 143(3) of Income Tax Act. Copy enclosed.

Thus Assessing Officer has all along accepted the assessee's claim of 'Obsolete Stock' both in the earlier assessment year and in subsequent years.

In view of the above submissions and submissions already made. It is requested to please allow the assessee claim of Rs. 56,55,686/- towards stock obsolescence to meet the end of justice."

4.1 Considering the above, Ld. Commissioner of Income Tax (A) held that the similar claims of the assessee has been allowed in the previous as well as succeeding assessment years. Hence, he held that there is no justification to disallow the identical claim during the year under consideration. He further observed that the stock for the value of Rs. 56,55,866/- was written off in the books of assessee on the ground that material supplied did not meet the specifications as to the composition of the materials and other short comings. Ld. Commissioner of Income Tax (A) further observed that assessee follows step-by-step procedure to declare the obsolescence of stock. The same was as under:-

- "a) On the receipt of complaints by the assessee company regarding quality control from the buyer(s), samples are picked out of materials lying with it (assessee company) from the respective lots of products supplied to the buyer(s) and the same are sent for testing to well known laboratory / test house part from in-house testing.
- (b) On the analysis of the test reports any material is declared obsolete stock and then written off."

✓
[Signature]
[Stamp]

4.2 Ld. Commissioner of Income Tax(A) concluded as under:-

"During the assessment proceedings, the assessee has also furnished the evidences to prove that the above stock have become obsolete during the year under consideration such as quality test reports of Indian as well as of foreign test laboratories (wherever desired), copies of complaints of the customers, stock ledgers with purchase bills and item-wise details of stock written off. Considering the volume of the assessee's business wherein the assessee's turnover was to the extent of about Rs. 23 crores, the possibility of some stock becoming obsolete cannot be ruled out. Further, the obsolete stock has some realizable value which is evident from the fact that the amount realized is credited as scrap sales in the assessee's books of account for the year relevant to A.Y. 2005-06. Considering the totality of these facts and the rival submissions, it is held that the disallowance of Rs. 56,55,866/- on account of stock obsolescence is not justified and the same is deleted."

5. Against the above order the Revenue is in appeal before us.
6. We have heard the rival contentions in light of the material produced and precedents relied upon.
7. We find that assessee has a proper system in operation for identification of obsolete stocks. On receipts of the complaints regarding quality control from the buyer(s), samples are picked out of materials from the respective lots of products supplied to the buyer(s) and the same are sent for testing to well known laboratory / test house or subjected to in-house testing. On the analysis of the test reports



material is declared obsolete and then written off. We find that the obsolescence of stock is not a new phenomenon in the line of business the assessee is involved. During the assessment year 2003-04 the assessee has claimed stock obsolescence of Rs. 23,02,759/- and no disallowance was made by the Assessing Officer. Similarly, Rs. 20,40,342/- was written off during the A.Y. 2006-07 as obsolete stock and no disallowance on this issue was made by the Assessing Officer. Thus, we find that Assessing Officer's observation that assessee has made claimed of obsolete stock without proper basis is not sustainable.

7.1 Further, Ld. Commissioner of Income Tax (A) has given a finding that assessee has produced the evidence to prove that the said stock have become obsolete during the year like quality test reports of Indian as well as Foreign Laboratories, copies of complaints of the customers, stock ledgers with purchase bills and item-wise details of stock written off. Furthermore, these items were also furnished in the form of paper book before us.

7.2 We further agree with the Ld. Commissioner of Income Tax (A) that considering the volume of assessee's business, wherein the assessee's turnover was to the extent of Rs. 23 crores, the possibility of some stock become obsolete cannot be ruled out. Furthermore, we find that Assessing Officer has observed that the purchase bills of the obsolete stock were pertaining to earlier period. We find that this is not a cogent basis, as only old stock generally become obsolete. Hence, no adverse inference can be taken on the ground that the purchase bills of the obsolete stock were pertaining to earlier period. Further, Assessing Officer has drawn adverse inference that there is no realization of scrap value in assessee's books. In this

regard, assessee has duly explained that assessee has sold the obsolete stock as scrap and the same have been accounted for in assessment year 2005-06. In view of the above said discussions, in our considered opinion, there is no infirmity in the order of the Ld. Commissioner of Income Tax (A), accordingly, we uphold the same.

8. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open court on¹⁰/₁₅⁸2013.

[A.D. JAIN] *[Signature]*
JUDICIAL MEMBER

Date ²10/15/2013

"SRBHATNAGAR"

Copy forwarded to: *[Signature]*

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

[SHAMIM YAHYA]
ACCOUNTANT MEMBER

TRUE COPY

By Order,

[Signature]
Assistant Registrar,
ITAT, Delhi Benches

सहायक पंजीकार,
Assistant Registrar
आयकर अपील विभाग
Income Tax / appellate Tribunal
(Delhi Benches)
Delhi Benches, New Delhi.

