

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

**BEFORE SHRI I.C. SUDHIR, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No. 733 /Del/2012
Assessment Year: 1997-98

Asstt. Commissioner of
Income Tax, Sonapat Circle,
Sonapat.
(Appellant)

Vs.

M/s Milton Cycle Industries Ltd.,
Sonapat
(PAN: AABCM3269R)
(Respondent)

Assessee by : Sh. Dinesh Nangrm, CA
Department by: Sh. P. DAM Kanunjana, Sr. DR

Date of hearing: 11.05.2015
Date of pronouncement: 10.06.2015

ORDER

PER INTURI RAMA RAO, A.M.:

This is an appeal by the Revenue for the assessment year 1997-98 filed against the order of learned CIT(A), dated 01.12.2011, on the following grounds of appeal:

- i. On the facts and circumstances of the case the Ld. CIT(A) erred in law in deleting the addition of Rs. 4,93,319/- made by the A.O. on account of finished goods elaborately explained in the assessment order by taking the value as shown in the bills by the assessee.
 - ii. On the facts and circumstances of the case the ld. CIT(A) erred in law in deleting the addition of Rs. 2,94,300/- by ignoring the fact that the assessee did not taken this plea at the time of assessment proceedings.
 - iii. On the facts and circumstances of the case the ld. CIT(A) erred in law in deleting the additions of Rs. 6,32,250/- by ignoring the fact that the assessee has valued semi finished goods as the raw material.
2. Briefly stated facts of the case are that the appellant is a company incorporated under the provisions of Companies Act, 1956 which is engaged in

the business of manufacturing and sale of cycle chains, wheel and axles. The return of income for the assessment year 1997-98 was filed on 28th November, 1997 disclosing loss of Rs. 27,09,520/- and income of Rs. 1,08,544/- under the provisions of Section 115J of the Income-tax Act, 1961 (for short 'the Act'). Against the said return, the assessment was completed under Section 143(3) of the Act vide order dated 22nd March, 2000 at a loss of Rs. 1,26,032/- thereby, making addition of Rs. 25,83,492/-. However, this assessment order was rectified by the Assessing Officer under Section 154 of the Act vide order dated 26th July, 2000 at a loss of Rs. 12,75,648/-. Against the said order of the assessment, an appeal was filed before the CIT(A) and part relief was granted. This order was appealed against by the Revenue before the ITAT, Delhi Bench. The ITAT, Delhi Bench in ITA No. 410/Del/2002, vide order dated 08.09.2005, set aside ground nos. 1 to 5 of the appeal to the file of CIT(A). Pursuant to this direction of the ITAT, Delhi Bench, learned CIT(A) passed the impugned order on 1st December, 2011 wherein the grounds of appeal raised by the assessee were allowed. Being aggrieved by this order, the Revenue is before us with the present appeal.

3. The learned Departmental Representative vehemently argued that the learned CIT(A) had failed to properly appreciate the facts of the case and therefore, he prayed that the order of learned CIT(A) should be set aside.

4. On the other hand, the learned Authorized representative relied upon the order of the CIT(A).

5. We have heard the rival submissions of the parties and perused the material on record as well as the orders of the authorities below. We find that the order of learned CIT(A) is well reasoned it is only after appreciating the facts involved in the case of the assessee, the grounds of appeal were allowed. The conclusion of the CIT(A) regarding ground no. 1, vide para 4.4 of his order, is as follows:

“I have considered the issued and the submissions made by the AR. From the submissions of the AR accompanied with the copies of bills, it is evident that the sale price of “B” quality chains, Freewheel Mayfair, Atlas Chain and Freewheel A/S Fullbell have been erroneously taken by the AO contrary to the figures mentioned in the sale bills. From the sale bills, it is evident that the assessee has valued the closing stock of finished goods at realizable value/sale price and as such there is no understatement of closing stock. In view of the above, addition of Rs. 4,93,319/- made in this regard is deleted and the grounds of appeal are allowed.”

The Revenue has not brought any material on record nor filed any evidence in rebuttal to the above conclusion drawn by the CIT(A), we, therefore, do not intend to interfere with the impugned order regarding this issue. Accordingly, ground no.1 raised by the Revenue is dismissed.

6. As regards to ground no. 2, the conclusion drawn by the learned CIT(A) vide para 5.3 is as follows:

“I have considered the issue and the submissions made by the AR. It is evident that Rs. 6,74,300/- being the cost of self manufactured machinery, has been duly added in the computation of income. It is seen that it has been erroneously mentioned as Rs. 3,80,000/- in the footnote. Since the amount of Rs. 6,74,300/- has been added in the computation of income, no further addition is called for. Therefore, the addition of Rs. 2,94,300/- is deleted and the ground of appeal is allowed.”

7. We find that this ground of appeal relates to the addition on account of self manufactured machinery is totally based on the facts and it appears that

since the same amount had already been added to the computation of total income, no separate disallowance is called for. Hence, this ground of appeal filed by the Revenue is also dismissed.

8. As regards to ground no. 3, the learned CIT(A) has dismissed the ground and concluded vide para 6.2 of his order, which is reproduced hereunder:

“I have considered the issue and the submissions made by the AR. It is not in dispute that the appellant company has been following the same method of valuation of closing stock consistently for a number of years, which has been accepted by the Department in the earlier years. In fact, no addition on this account has been made in the order u/s 143(3) for the AY 1998-99. From the explanation of the appellant, it is evident that the direct cost at the raw material stage of WIP does not amount to more than 5%. Further, the variation would be negligible if the effect of opening stock of WIP is taken into account. The case laws relied upon by the AR applicable to the facts of the appellant. In view of above, addition made by the AO of Rs. 6,32,250/- is deleted and the ground of appeal is allowed.”

9. We notice that the appellant had been consistently following this method of valuation of closing stock and therefore, we do not intend to interfere on this ground of appeal also. Accordingly, this ground of appeal is dismissed.

10. In the result, the appeal of the Revenue is dismissed.

The decision is pronounced in the open court on 10th June, 2015.

Sd/-
(I.C. SUDHIR)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Dated: 10th June, 2015.

RK/-

Copy forwarded to:

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