

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C', NEW DELHI)**

BEFORE SHRI G. C. GUPTA, HON'BLE VICE PRESIDENT
AND SHRI T.S. KAPOOR, ACCOUNTANT MEMBER

I.T.(SS). No.417 /Del/2003

Block period : 1.4.1999 to 14.09.2000

DCIT, CC-13,
New Delhi

Vs.

Mohan Proteins Ltd.,
78/3, Janpath, 2nd Floor,
New Delhi.

GIR / PAN:

(Appellant)

(Respondent)

Appellant by : Shri RIS Gill, CIT DR
Respondent by : Shri C S Aggarwal, Adv
Shri Ravi Pratap Mall, Adv.

Date of hearing : 22.05.2015

Date of pronouncement : 10.06.2015

ORDER

PER T.S. KAPOOR, AM:

This is an appeal filed by Revenue against the order of Ld . CIT(A) dated 25.06.2003. The Revenue had sought adjournment in this case. However Ld. Senior Counsel for the assessee strongly objected to the adjournment letter and invited our attention to the order sheet entries and submitted that Revenue has been taking adjournments unnecessarily which is causing great harm to the assessee. Our specific attention was invited to entry dated 03.03.2015 and it was submitted that on last occasion also Revenue had sought adjournment and Hon'ble ITAT had imposed a token

cost of Rs.1 and, therefore, it was not fair on the part of Bench to allow adjournment again.

2. Ld. D.R. was confronted with these facts. He again prayed for a short adjournment but on going through the earlier hearings as noted in the order sheet, we find that Revenue was continuously seeking adjournments. It is seen that the revenue was given last opportunity vide order sheet entry dated 26.05.2014. Again on 02.03.2015, the adjournment was granted on the written request of Ld. D.R. and again on 03.03.2015 after imposing a token cost on revenue, the adjournment was granted for hearing on 22.05.2015, therefore, request of revenue to seek adjournment again was not justified. In view of above facts and circumstances, the adjournment application of revenue was rejected and Ld. D.R. was asked to argue the case on merits. Therefore, Ld. D.R. invited our attention to grounds of appeal and submitted that the Revenue has taken as many as 9 grounds of appeal against various deletions made by Ld. CIT(A) in respect of various additions made by A.O. For the sake of convenience, grounds of appeal taken by Revenue are reproduced below:-

"1.. "On the facts and circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.1,75,000/- made on account of cash seized from Shri Ghanshyam Sharma by ignoring the fact that in. rite of sufficient opportunities to the assessee to explain the seized cash the assessee failed to explain the nature of cash"

ii) "On the facts and in the circumstances of the case the Ld, CIT(A) erred in deleting the difference of Rs. 1,04,250/- in the account of Shri Sanjeev Goyal, appearing the books of assessee company as found from his residence and as per- records of tile company

iii) "On the facts and circumstances of tile case the I Ai. CIT(A) erred in deleting the addition of Rs. 15,70,373/- made on account of S<1k: of spares outside the hooks of account ."

iv) *"On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs. 1,42,40,3B/- made on account of undisclosed income by treating the stock of spares having been sold outside the books of account"*

v) *"On the facts and the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.4,22,717/- made on account of undisclosed income of sale of packing material outside the books of account.*

vi. *"On the facts and in the circumstances of the case the Ld. CIT(A) erred in deleting the addition of Rs.1,70,81,755/- made on account of unexplained investment in stock of finished goods found in excess",*

(vii.) *"On the fact" and in the circumstances of the case the Ld.CIT(A) erred in deleting the addition of Rs.50,84,400/- made on account of undisclosed income on account of sale of Skimmed Milk Powder outside the books of account, "*

viii). *"On the facts and in the circumstances of the case the Ld.GTI(A) erred in deleting the addition of Rs.37,05,240/- made on account of undisclosed investment in the stock of Skimmed Milk Powder.*

IX. *"On the facts and in the circumstances of the case the Ld.CIT(A) erred in deleting its addition of Rs.48, 53,675/- made on account of unexplained investment in stock of work in progress. "*

3. The ground-wise arguments advanced by Ld. A.R. are noted as under:

4. Ld. D.R. argued upon ground No.1 and submitted that during search, cash of Rs.1.75 lacs was seized from Shri Ghanshyam Sharma for which no satisfactory explanation was submitted by assessee. He submitted that in answer to question No.2 Shri Ghanshyam Sharma replies that he had come to deliver cash of Rs.1.75 lacs to Shri R. L. Goel whereas Shri Pradeep GM(F) who is on record could not recognize Mr. Ghanshyam and, therefore, the amount of Rs.1.75 lacs remained unexplained.

5. As regards ground No.2, Ld. D.R. submitted that during search proceedings, Annexure A-4 was found which contained a ledger account of

Shri Sanjeev Goel in the books of account of assessee for the period 1.7.2000 to 12.09.2000 during the block assessment proceedings, the assessee company was asked to reconcile the above documents with the books of account, which could not be explained satisfactorily and, therefore, the addition was rightly made by A.O.

6. Coming to ground No.3, the Ld. D.R. submitted that during search and seizure operation, the search team had found a difference of Rs.15,70,373/- in the amount of payer as per books of account of the assessee and as per final inventory of stores and spares and the difference was not explained.

7. Ld. D.R. in this respect invited our attention to para 8(3) of assessment order and submitted that the stock physically found was less as compared to that reflected in the books of account and therefore, the difference of amount was deemed to have been sold out of books and, therefore, the A.O. had rightly made the addition.

8. Regarding ground No.4, Ld. D.R. invited our attention to para 8(v) of the assessment order and submitted that his addition was also made as there was difference between physical stock and stock as per books of accounts and, therefore, the A.O. has rightly held the difference of stock as sales made outside books of account. Similar arguments were advanced in respect of Ground No.5 wherein the A.O. had made addition on account of sales outside books of account of packing material.

9. As regards ground No.6, Ld. D.R. submitted that there was difference in physical stock of finished goods with the computer generated list of finished goods and A.O. had noticed the difference in various items as noted in assessment order at page 14 which the assessee was not able to explain.

Therefore, the A.O. had rightly made the addition. Similar arguments were advanced in respect of ground No.7, 8 & 9. Ld. D.R. heavily relied upon the order of A.O. and submitted that Ld. CIT(A) has not considered the facts as noted in the assessment order.

10. Ld. A.R. on the other hand invited our attention to remand report dated 12.05.2003 placed in paper book page 42-45 and submitted that during proceedings before Ld. CIT(A), detailed submissions in respect of each and every item of raw material, finished goods, packing material etc. was furnished and also explanations were submitted for other additions. Ld. CIT(A) had forwarded the submissions of assessee to A.O. for his remand report and the A.O. in his remand report, has not pointed out any discrepancy and rather has accepted that the necessary reconciliation has been filed by assessee and, therefore, Ld. CIT(A), after examining and evaluating submissions and on the basis of remand report had allowed relief to the assessee. He submitted that Ld. D.R. could not controvert any of the finding of Ld. CIT(A) and, therefore, the order of Ld. CIT(A) is liable to be upheld.

11. We have heard rival parties and have gone through the material placed on record. We find that the Revenue had taken an additional ground of appeal by which it had taken the ground that there was violation of Rule 46A while admitting additional evidence. We find that the additional ground of appeal stands disposed of by Tribunal (vide interim) order dated 30.01.2009 and Hon'ble Tribunal has not accepted the application for acceptance of additional ground of appeal.

12. We find that the A.O. in his remand report dated 12.05.2003 has covered each ground of appeal taken before Ld. CIT(A). In the remand

report he has admitted that necessary details has been furnished and has not advanced any comments on the submissions which implies that the A.O. himself had no objection to the submissions and he was satisfied with the submissions of assessee. For the sake of convenience, remand report dated 12.05.2013 is reproduced below:

“Remand Report in the case of M/s Mahaan Proteins Limited for the Block period from 01.04.1990 to 14.09.2000 - Appeal No. 20312002-03 - reg.

Sir,

Kindly refer to your office letter regarding remand report in the above captioned case.

Parawise comments on the written submissions made by the Assessee Company before your good self are as under:

Ground No.1: A sum of Rs. 1,75,000/- was seized on 14.09.2000 from Sh. Ghanshyam Sharma of M/s Continental Milkose India Ltd., who came to the office of M/s Mahaan Proteins Ltd. (MPL) while search action was going on. As the assessee failed to prove that this amount was advance money against order of 5 MT of Lactose placed by Continental Milkose India Ltd., the said amount was added as undisclosed income of the assessee on account of sales outside books of account. 'In their statements recorded during survey operations U/S 133A of the I.Tax Act, 1961 on 14.09.2000 at the premises of Continental Milkose India Ltd., Sh. Deepak Aggarwal, Exe. Director and Sh. Anupam Saxena, Dy. Manager (Procurement) admitted that this money was sent to MPL as advance against order for supply of 5 MT of Lactose. But Sh. Pradeep Narang, General Manager (Finance) o: MP~ could not recognize Sh. Ghanshyam Sharma ,of Continental Milkose India Ltd. During, search operation. Accordingly a sum of Rs. 1,7 5,000/- was added as undisclosed income of the assessee. The assessee has now furnished an affidavit from Sh. Roshan Lal Goyal, Genera! Manager (Marketing) stating therein that order for supply of 5 MT of Lactose was placed by Sh. Anupam Saxena of Continental

Milkose India Ltd. on 13.09.2000 on telephone and Sh. Ghanshyarn Sharma has brought Rs. 1,75,000/- as advance for this order.

Ground No.2: Assessee has contested addition of Rs. 1,04,250/- as undisclosed income. Perusal of seized documents marked as page 1 of Annexure A-4 (of Panchnama drawn at the residence of Sh. Sanjeev Goyal and ledger account of Sh. Sanjeev Goyal appearing in Annexure A-57 (print out of Annexure A-27 seized from factory premises of MPL at Kosi) showed that a sum of Rs. 1 Lac and Rs. 4,250/- was paid to Sh. Sanjeev Goyal. But this payment is not reflected in the above referred Annexure A-4. As the assessee could not explain the discrepancy, Rs. 1,04,250/- was added as undisclosed income of the assessee. The assessee has now submitted that page 1 of Annexure A-4 contained entries upto 06.09.2000 only whereas I Annexure A-57 contained entries upto 13.09.2000.

Ground No.3: The assessee has contested the addition of Rs. 35,000/- as unexplained investment in color TV. This addition was made in the hands of MPL as the delivery challan and receipt are in the name of MPL C/o Sh. Sanjeev Goel The assessee has now made submission that the said transaction stands explained in the hands of block assessment of Sh. Sanjeev Goyal and filed copy of case flow statement of Sh. Sanjeev Goyal along with copy of assessment order for the block period.

Ground No.4: The assessee has objected to the addition of Rs. 54,000/- as unexplained expenditure. The addition was made as the assessee could not prove that this amount was paid out of receipt of Rs. 56,900/- declared as undisclosed income in the block return.

Ground No. 5(a) : The assessee contested the addition of Rs.15,70,373/- on account of value of stock of spares being treated as sale outside books of account. During search operation at the factory premises at KOSI, value of stock of spares physically found and inventoried was Rs. 98,80,700/- and value of this stock as per computerized list (list III) was Rs. 1,14,51,073/-. The explanation forwarded by the assessee that the difference may be due to the reason that spares that are issued after 6 p.m. can be entered only on the next morning. Assessee also failed to produce the documentary evidence

during assessment proceedings. Assessee has now filed copies of requisition slips evidencing the issue of spares.

Ground No. 5(b): The assessee has also contested the addition of Rs.1,42,40,373/- on account of difference in the value of stock items taken and the stock of spares physically found. Assessee has submitted that there are about 2800 items of stock of spares at a given time but search party listed only 288 items and even some of these items were taken/counted as a lot But the assessee's explanation was not accepted as though the search party prepared the inventory, but the representatives of the assessee assisted them. Sh. Jiteder Kumar Yadav, Asstt. Stores Officer of MPL who signed the inventory would be aware of the value of various stores items. The assessee has now filed affidavit of Sh. D.S. Negi, Dy. Manager (Stores) stating that Sh. Pankaj Kumar Saini, who has assisted the search party in preparation of the inventory of spares, job was primarily to handle store items. The assessee has also now relied on the comparative chart of Stock taking report as on 31.03.1998, 31.03.1999 and 31.03.2000, which was seized as Annexure A-17 to A-19 of MPL at Kosi. These charts show that about 3000 items of stock of spares were available at the end of each period referred above. The assessee has now filed Item wise quantitative reconciliation of individual stock items for the period 01.04.2000 to 31.03.2001. The Balance Sheet of the assessee company reflects closing stock of inventory of spares etc. at the end of each year.

Ground No. (c) : The assessee has also contested the addition of Rs.4,22,717/- on account of packing material. Assessee has submitted that old/scrap material amounting to Rs. 2,06,805/-; packing material valued at Rs. 2,00,531/- lying in fumigation chamber and petty packing material valued at Rs. 15,381/- lying at packing room was not inventorized at the time of search. This explanation of the assessee was not accepted.

Ground No. (d) : No comments.

Ground No.6: The assessee has objected to the addition of Rs. 32,440/- on account of 'Quantity in production store'. The addition was made as physically the quantity of Ghee was found less than the quantity as per stock record and the assessee failed to explain this discrepancy. The assessee has now submitted that normally on request

Ghee is issued to the villagers, who supply milk to the assessee and the account is settled later on from the payment to be made to these villagers. Documentary evidence to this effect has now also been filed.

Ground No.7: The assessee has contested the addition of Rs. 1,94,12,755/- (reduced to Rs. 1,70,81,755/- U/S 154) on account of difference in stock physically found on the date of search and as per stock register of the assessee. Assessee's contention, that this is due to the return of defective goods from customers and/or return from store record, was not accepted as some of the items returned were as early as in the month of February, 1998. The assessee has now filed evidence regarding goods returned.

The assessee has also submitted that the stock in production was returned finished goods which require some further processing. Stock position as on 31.03.2000 was already filed during assessment proceedings. Stock position for the period ending 31.03.1999 and 31.03.2001 has now been filed which contains separate heads for finished goods and stock in production and that stock at production is regularly valued for the purpose of valuing total stock as reflected in the balance Sheet.

Ground No.8: The assessee has contested the addition of Rs. 99,223/- (reduced to Rs. 49,993/- U/S 154) on account of sale of packing material outside books of account.. This addition was made as there was difference of material physically found during search and as per stock record of the assessee. Assessee has now furnished copies of stock requisition slips with the submission that the material issued on the intervening night of 13.09.2000 and 14.09.2000 could have been entered only next day i.e. 14.09.2000.

Ground No.9: The assessee has contested the addition of Rs. 29,410/- on account of unexplained investment in packing material (plastic film). This addition was made as the assessee could not furnish documentary evidence to his submission that weight per box has been taken at 20 kg. Per box, whereas it varies 15 kg. To 22 kg. Per box.

Ground No. 10 & 11 : The assessee has also contested the addition of Rs. 50,84,400/- on account of sale of raw material (SMP) outside books of account and Rs. 37,05,240/- being unexplained investment

due to excess stock. Assessee's explanation that some of the raw material was transferred to production process and the stock of raw material is taken by weight and not by the size of packing, was not accepted. The assessee has now furnished copies of requisition slips for the issue of raw material.

Ground No. 12 : The assessee has contested addition of Rs. 48,53,675/- on account of stock of work in progress found at the time of search operation. The addition was made as no stock register was maintained for the materials used for work in progress. However, inventory of contents of various tanks that were in use in production process was drawn and valued at Rs. 48,53,675/- on approximate basis. Assessee has submitted that milk purchased on 12.09.2000 and 13.09.2000 was 4.85 lac litres worth Rs. 46.07 lac, 33060 kg. Of SMP worth Rs. 18.50 Lacs and 10400 kg. of Melted Butter worth Rs. 11 Lacs was in the production process. To substantiate this, the assessee has now filed requisition slips for SMP and Melted Butter.

Ground o. 13: This ground is of general nature and no comments are offered.

*Yours faithfully,
(P.K. SINGH),
Asstt. Commissioner of I. Tax
Central Circle - 13, New Delhi”*

12. Keeping in view the above remand report, Ld. CIT(A) has deleted the additions by holding as under:

Ground No.1 : “5. I have considered the facts of the case. There is no dispute that Shri Deepak Aggarwal, Director of MIs Continental Milkose India Ltd had accepted the fact of having sent the cash of Rs.1,75,000/- to the assessee company through Shri Ghanshyam Sharma. The source of the amount of Rs.1,75,000/- has also been explained by statement of Shri Deepak Aggarwal recorded the course of survey. As such the ownership of the cash recovered from Shri Ghanshyam Sharma was clearly not that of the appellant company.

The A.O. has added the amount on the ground that the amount is not reflected in the books of accounts of the assessee. As explained by the appellant, the amount is not reflected in its books as the money was not received by the company and the proposed sale never took place. In these circumstances of the case, the explanation furnished by the appellant is reasonable. As such the addition of Rs.1,75,000/- is deleted.”

Ground No.2:

“7. I have considered the facts and circumstances relating to the addition made by the A.O. The appellant's contention that the entries on page-1 of Annexure A-4 represented the position up to 6/9/2000 whereas the imprest payment of Rs.1,00,000/- was made on 8/9/2000 and imprest payment of Rs.4250/- was made on 12/9/2000, i.e., subsequently, as per Annexure A-57 seized from the assessee's factory at Kosi Kalan, is reasonable and satisfactory. There is no evidence on record to indicate that the page-1 , Annexure A-4 contained the up to date entries of the imprest account of Shri Sanjeev Goyal with the company. There is bound to be difference in the two records if the period to which each relates is different from each other. The addition made by the A.O. is on insufficient material and basis and the discrepancy having been explained the addition of Rs.1,04,250/- is deleted.”

Ground No.3:

“13. I have carefully perused the facts discussed in the assessment order and the submissions and documents furnished by the appellant. From the details given in the preceding paragraphs, it has been noted

that the appellant has reconciled the alleged shortage/excess in the stock of spare parts which has been narrated at page-10 of the assessment order. In view of the detailed explanation furnished by the assessee, it is clear that in respect of aforesaid items mentioned in the assessment order, there cannot be any question of any discrepancy in stock. The appellant's contention that the quantity and value of spare parts issued on 13.9.2000/14.9.2000 for use in the production process was reasonable and in line with the average daily consumption of spare parts throughout the year has also force. Hence, merely on the basis of surmises, it cannot be said that the claim of the appellant regarding quantity of spare parts used on 13/14.9.2000 was incorrect or manipulated. The position appearing from the books of accounts of the assessee itself has to be kept in view while judging the issue. Accordingly, it is held that the finding of the A.O. that spare parts valued at Rs.15,70,373/- had been sold outside the books is based only on presumption, without any concrete evidence. I also find justification in the Appellant's contention that the spare parts could not have been sold as such, as they would be of little value to outsiders apart from the competitors. No evidence has also been found during the search to indicate any suppression of sales, specifically of spare parts. The actual rate of individual items of spare parts is supported by the books of accounts and vouchers kept by the appellant. In these circumstances, the addition of Rs.15,70,373/- is unjustified and the same is deleted.”

Ground No.4:

“15. I have considered the facts and circumstances, relating to the addition made in the assessment. I have also perused the inventory prepared at the time of search. The appellant's contention that approximately 2800 items were available in stock as per" list-III, which forms part of seized record cannot be considered as incorrect. However, in the inventory prepared during the search, the items of spares listed are 288 only. This shows that the entire quantity of spare parts could not be incorporated into the inventory. It is also noted that the rates listed in the inventory are approximate and appear in round figures. This shows that the rates and value adopted in the inventory cannot be relied upon, particularly when the assessee has maintained detailed record of spare parts in list- III and the rate of items is verifiable from the purchase documents. The arguments given by the A.O. for making the addition are general in nature and no specific discrepancies in explanation have been pointed out. There is also no incriminating evidence found during the search regarding sale of spare parts outside the books of account. The appellant is also correct in pointing out that the spare parts used in the production process would not be of any value to outside parties as these have specific enduse. The spare parts are specific to the production process and are not generally capable of being sold as such in the market. Considering these facts of the case, I am of the opinion that the addition of Rs.1,42,40,373/- has not been made on any proper or strong basis, and the explanation of the appellant has not been controverted. Accordingly, the aforesaid addition of Rs.1,42,40,373/- is deleted.”

Ground No.5:

“17. I have considered the facts and circumstances relating to the addition made. The submissions of the appellant in relation to the stock lying in the fumigation chamber have been considered and it is noted that there is no mention in the search inventory of any material lying in the fumigation chamber. The contention of the assessee regarding stock of Rs.2,06,865/- having not been considered being old/scrap material cannot also be discard The contentions regarding packing material lying in the packing room are also reasonable. I have also considered the submission of the appellant that there is no question of any sale of even rejected packing material, as the same contains the name of the assessee preprinted on them. In these circumstances the presumption of sale of packing material outside the books of account is not justified and the addition made is deleted.”

Ground 6:

“I have noted the facts and circumstances of the case. The appellant has furnished documentary evidence to show that the quality of various product manufactured by it was not always up to the mark, and goods were returned from time to time by the appellant’s customers. Copies of rejection letters issued by the appellant’s customers have been filed in support of the contentions. It is also clear from the balance sheets of the appellant company for the years ended 31.03.99, 31.03.2000 & 31/312001 that the closing stock of goods stock at production was being regularly shown as part of the total closing stock of finished goods in these various years. Thus, finished goods termed as stock at production by the assessee have been shown in the years prior to the search as part of the closing stock

in the balance sheet, even though day to day record is not kept as per list II. The stock at production was reckoned separately from the finished goods at factory and depots etc. which are enumerated in list-II as per stock records maintained in the computer by the appellant. But it is clear from the past record of the appellant company itself and the copies of audited accounts for earlier years that the goods, viz. stock at production were very much a part of closing stock entered in the books of accounts at the end of the year. In fact the value of stock at production has been worked out at a higher amount than the value considered in the assessment order.

During the course of appellate proceedings, the appellant was required to furnish quantitative reconciliation of stock at production for the period 11/4/2000 to 14/9/2000 (i.e. the date of the search), viz. total stock of WPC and other items as per books as on 31/12/2000 and stock of WPC etc. found at the time of search on 14/9/2000. Such reconciliation was prepared by the appellant and furnished vide replies dated 28/5/2003 and 18/6/2003. The appellant has also filed copies of stock ledger account of the factory at Kosi Kalan, which is a part of the seized record, from which the goods were received and issued to stock at production. This shows that the stock found during the search is reconcilable with reference to the books of accounts and variations if any are very nominal. Accordingly, the claim of the appellant that stock at production is part of finished goods and reflected in the books of accounts is accepted and the addition of Rs. 1,94,12,755/- (reduced to Rs.1,70,81,755/- in the order U/S 154 dt.26/2/2003) is deleted.”

Ground NO.7 & 8:

“29. I have considered the facts of the case. The appellant's contention that the quantity of skimmed milk powder is recorded in the stock ledger by weight in kgs and not by the size of the packing is found to be correct. Copy of the stock ledger account furnished by the appellant at pages 787 to 797 of the paper book have been perused in this regard. From the stock ledger account, it is noted that the appellant company is regularly recording the quantity of SMP only in terms of weight in kgs and not in terms of number of bags. Accordingly, the exercise made by the Assessing Officer to work out alleged shortage of skimmed milk powder not justified. The reasons for mentioning the quantity in terms of kgs in the stock ledger have also been explained by the appellant in its written submissions, which have been reproduced above. It is also noted that the recording in the stock ledger does not mention the supplier's name. Further, it is also clear from the record that during the course of search no evidence is found to indicate sale of SMP, which is a raw material used in the production process of the appellant.

Similarly, there is no justification for treating a sum of Rs.37,05,240/- as undisclosed investment in stock of SMP, as per ground No.-II. As discussed above, the appellant company is keeping a record of the SMP in its stock ledger in terms of quantity in kgs, and not in terms of number of bags. Hence any comparison of the quantity of SMP found in terms of bags of specific description with the quantity recorded in the stock ledger, which is in terms of weight in kgs, is not feasible. The stock of SMP has to be considered only as per weight in kgs, and

the reasons for differences in quantity in bags (due to repacking in course of time) have been explained by the appellant.

Accordingly, the addition of Rs.50,84,400/- on account of alleged sales of SMP outside the books of account and addition of Rs.37,05,240/- as unexplained investment in SMP is deleted.”

Ground No.9:

“31. I have considered the facts of the case. It is noted that the log sheets prepared during the production process do not contain quantitative data of production, and hence cannot be said to indicate measurement of work in process. The argument taken in the assessment is therefore not valid. The second reason given by the AO. for making the addition namely that the transfer of 33 tons of SMP to production process was not established by the appellant has also been discussed in relation to grounds of appeal No.10 & 11 above. It has been held that there is no material to doubt the availability of skimmed milk powder as per the books of accounts and the stock ledger. Hence, the reasons given by the AO. for treating the work in progress of Rs.48,53,675/- as unexplained are not satisfactory. On the other hand, the appellant has furnished details of quantities of raw material issued for the production process on 12th/13th September, 2000. The work in progress has necessarily to be estimated, considering the nature of production carried on by the appellant company. The estimate so made in the assessment is in line with the quantity and value of work in progress shown by the assessee earlier for the year ended 31/3/2000 in the balance sheet at Rs.53,07,490/-.

Further no material or evidence has been found during the search to indicate excess investment in .work in process. In these circumstances of the case, there is no material on record to arrive at the conclusion that the appellant company may have made the entire investment or any part of investment in the stock of work in process outside the books of accounts. Accordingly, the addition of Rs.48,53,675/- is deleted.”

13. From the order of Ld. CIT(A), we find that Ld. CIT(A) after examination of the detailed submissions of assessee and after going through the remand report , has passed detailed and exhaustive order wherein he has recorded his detailed findings. A.O. during remand proceedings has not questioned any of the submissions made by assessee and in fact by not passing any adverse comments, he has accepted the explanations of assessee and, therefore, in the absence of objections from A.O., Ld. CIT(A) has rightly deleted the additions. Moreover, none of the findings recorded by Ld. CIT(A) has been controverted by Ld. D.R. In view of above facts and circumstances, we do not find any infirmity in the order of Ld. CIT(A), therefore, appeal filed by Revenue is dismissed.

14. In view of above, appeal filed by revenue is dismissed.

15. Order pronounced in the open court on 10th June, 2015.

Sd./-

(G. C. GUPTA)
VICE PRESIDENT
Date:10th June, 2015
Sp

Sd./-

(T.S. KAPOOR)
ACCOUNTANT MEMBER

Copy forwarded to:-

1. The appellant
2. The respondent
3. The CIT
4. The CIT (A)-, New Delhi.
5. The DR, ITAT, Loknayak Bhawan, Khan Market, New Delhi.

True copy.

By Order

(ITAT, New Delhi).

S.No.	Details	Date	Initials	Designation
1	Draft dictated on			Sr. PS/PS
2	Draft placed before author	1,2/6,8,9		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS	10/6/15		Sr. PS/PS
6	Kept for pronouncement	10/6		Sr. PS/PS
7	File sent to Bench Clerk	10/6		Sr. PS/PS
8	Date on which the file goes to Head Clerk			
9	Date on which file goes to A.R.			
10	Date of Dispatch of order			