

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “A” BENCH

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri Mahavir Prasad, Judicial Member**

**ITA No. 1313/Ahd/2016
Assessment Year 1999-2000**

The DCIT, Circle-1(1)(1), Vadodara (Appellant)	Vs	Ambalal Sarabhai Enterprises Ltd. WadiWadi Vadodara- 390023 PAN: AABCA6893K (Respondent)
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**Appellant by : Shri Urjit Shah, Sr. D.R.
Respondent by : Shri Bandish Soparkar, A.R.**

Date of hearing : 09-06-2022
Date of pronouncement : 22-06-2022

आदेश/ORDER

PER : ANNAPURNA GUPTA, ACCOUNTANT MEMBER:-

The present appeal has been filed by the Revenue against the order passed by the Commissioner of Income Tax (Appeals)-1, Vadodara, (in short referred to as CIT(A)), dated 29-02-2016, u/s. 250(6) of the Income Tax Act, 1961(hereinafter referred to as the “Act”) pertaining to Assessment Year (A.Y) 1999-2000.

2. The appeal was earlier disposed off by order dated 17-01-2019 but subsequently on a Miscellaneous Application filed by the Revenue the

appeal of the Revenue was recalled for adjudicating ground no. 8 raised therein noting that the same had been left unadjudicated, in MA No.231/Ahd/2019 dated 24-10-2019.. Accordingly, we shall proceed to adjudicate ground no. 8 of the Revenue's appeal which reads as under:

8. The Ld. CIT (A) erred in allowing expenses of Rs.448924/- claimed as foreign exchange difference without appreciating the fact that such liabilities would become ascertained liability on the date of actual payment and it would be allowed in the year of payment.

3. We have noted from the orders of the authorities below that the A.O. had disallowed the foreign exchange difference debited to the profit and loss account noting that it related to unascertained liability, which was not allowable under the Income Tax Act. The relevant findings of the A.O. at Para 20 of the order is as under:

20. The assessee has debited the profit and loss account with the provision of exchange rate different amounting to Rs. 4,48,924/-. When the attention of the authorized representative of the assessee was drawn to the fact as to why provisions of exchange rate difference should not be disallowed due to the reason that foreign currency fluctuates on day to day basis and finality arises on the date of actual payment. Therefore, the provision of exchange rate difference is unascertained liability of this year. In compliance to the above, it is submitted that the assessee has accounted for the exchange rate difference on the last day of the year on the basis of prevailing rate of currency on the date. It is submitted that in view of the mercantile method of account, the claim is allowable.

I have gone through the submission and find that unascertained liabilities are not allowable. As the liability with regard to exchange rate difference would become ascertained liability on the date of actual payment it would be allowed in the year of actual payment. Looking to the above, mere provision of exchange rate difference debited to profit and loss account of Rs. 4,48,924/- is disallowed.

4. The Ld. CIT(A) we find deals with the issue at para 4.1.5 of his order as under:

4.1.5. Vide 15th Ground of appeal the appellant has challenged the action of the AO of disallowance of Foreign Exchange difference of Rs.4,48,924/- rising out of restatement of sundry debtors/sundry creditors and other current assets. Identical issue was involved in earlier assessment year and in the appellate order for AY. 1998-99, this issue has been decided in favour of the appellant. Following the same, the disallowance made in the current year is directed to be deleted.

5. On going through the above, we have noted that the assessee had claimed that the foreign exchange difference pertained to restatement of Sundry debtors/sundry creditors. This contention of the assessee, we find, has remained uncontroverted.

6. Considering the same, we hold that the assessee's claim of foreign exchange fluctuation was in accordance with law. The Accounting Standard prescribed by the ICAI dealing with Effects of Changes in Foreign Exchange Rates, AS-11, require the current liabilities and assets of transactions conducted in foreign exchange to be restated as at the end of the every year on the value of foreign exchange as at the end of the year and any appreciation or depreciation thereon is to be accordingly accounted for in the profit and loss account. The relevant portion of the Accounting Standard is reproduced for clarity:

"Foreign Currency Transactions Initial Recognition

8. A foreign currency transaction is a transaction which is denominated in or requires settlement in a foreign currency, including transactions arising when an enterprise either: (a) buys or sells goods or services whose price is denominated in a foreign currency;

(b) borrows or lends funds when the amounts payable or receivable are denominated in a foreign currency;

(c) becomes a party to an unperformed forward exchange contract; or

(d) otherwise acquires or disposes of assets, or incurs or settles liabilities, denominated in a foreign currency.

9. A foreign currency transaction should be recorded, on initial recognition in the reporting currency, by applying to the foreign currency amount the exchange rate between the reporting currency and the foreign currency at the date of the transaction.

10. For practical reasons, a rate that approximates the actual rate at the date of the transaction is often used, for example, an average rate for a week or a month might be used for all transactions in each foreign currency occurring during that period. However, if exchange rates fluctuate significantly, the use of the average rate for a period is unreliable.

Reporting at Subsequent Balance Sheet Dates

11. At each balance sheet date:

(a) foreign currency monetary items should be reported using the closing rate. However, in certain circumstances, the closing rate may not reflect with reasonable accuracy the amount in reporting currency that is likely to be realised from, or required to disburse, a foreign currency monetary item at the balance sheet date, e.g., where there are restrictions on remittances or where the closing rate is unrealistic and it is not possible to effect an exchange of currencies at that rate at the balance sheet date. In such circumstances, the relevant monetary item should be reported in the reporting currency at the amount which is likely to be realised from, or required to disburse, such item at the balance sheet date;

(b) non-monetary items which are carried in terms of historical cost denominated in a foreign currency should be reported using the exchange rate at the date of the transaction; and

(c) non-monetary items which are carried at fair value or other similar valuation denominated in a foreign currency should be reported using the exchange rates that existed when the values were determined.

12. Cash, receivables, and payables are examples of monetary items. Fixed assets, inventories, and investments in equity shares are examples of non-monetary items. The carrying amount of an item is determined in accordance with the relevant Accounting Standards. For example, certain assets may be measured at fair value or other similar valuation (e.g., net realisable value) or at historical cost. Whether the carrying amount is determined based on fair value or other similar valuation or at historical cost, the amounts so determined for foreign currency items are then reported in the reporting currency in accordance with this Standard. The contingent liability denominated in foreign currency at the balance sheet date is disclosed by using the closing rate.

13. Exchange differences arising on the settlement of monetary items

It may be noted that the accounting treatment of exchange differences contained in this Standard is required to be followed irrespective of the relevant provisions of Schedule VI to the Companies Act, 1956. or on reporting an enterprise's monetary items at rates different from those at which they were initially recorded during the period, or reported in previous financial statements, should be recognised as income or as expenses in the period in which they arise, with the exception of exchange differences dealt with in accordance with paragraph 15.

14. An exchange difference results when there is a change in the exchange rate between the transaction date and the date of settlement of any monetary items arising from a foreign currency transaction. When the transaction is settled within the same accounting period as that in which it occurred, all the exchange difference is recognised in that period. However, when the transaction is settled in a subsequent accounting period, the exchange difference recognised in each

intervening period up to the period of settlement is determined by the change in exchange rates during that period. “

7. The claim of the assessee therefore, of foreign exchange difference of Rs. 4,48,924/- on account of restatement of sundry debtors/ sundry creditors and other current assets during the impugned year is in accordance with the accounting standard prescribed by the ICAI .

8. The revenue has not pointed out any provision under the Income Tax Act requiring such provision to be specifically disallowed. Therefore this claim made in accordance with the universally accepted accounting practices is an eligible claim and the same cannot be disallowed.

9. The issue is squarely settled in favour of the assessee by the decision of the Hon'ble Apex court in Commissioner of Income Tax vs Woodward Governor India (P) Ltd. (2009) 312 ITR 254(SC). Seized with an identical issue relating to claim of loss on account of exchange fluctuation in current assets and liabilities, it was held to be an allowable claim.

10. In view of the above the disallowance of foreign exchange fluctuation of Rs.4,48,924/- is directed to be deleted.

11. Ground of appeal No.8 is dismissed.

12. This order be read as part of the original order passed on 17-01-2019.

Order pronounced in the open court on 22 -06-2022

Sd/-
(MAHAVIR PRASAD)
JUDICIAL MEMBER *True Copy*
Ahmedabad : Dated 22/06/2022

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद