



*** HIGH COURT OF DELHI : NEW DELHI**

ITA No.341 of 2007

% Judgment reserved on: 2nd April, 2008

Judgment delivered on: 9th April, 2008

COMMISSIONER OF INCOME TAX

Delhi-VIII, New Delhi

..... Appellant.

Through: Ms.P.L.Bansal, Adv.

Vs.

M/S CAPITAL TYRES MFG. UNIT

H-150, Mathura Road,

Badarpur, New Delhi

..... Respondent

Through: Mr.S.Krishnan, Adv.

Coram:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE V.B. GUPTA

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to Reporter or not? | No |
| 3. Whether the judgment should be reported in the Digest? | No |

V.B.Gupta, J.

The Income Tax Appellate Tribunal (for short as 'Tribunal') vide its order dated 31st August, 2006 in ITA No.3231/Del/04 relevant for the assessment year 2001-02 has allowed to the Assessee relief of Rs.15,48,502/- on account of valuation of its opening stock.



2. Aggrieved by the decision of the Tribunal, the Revenue has filed the present appeal.

3. Brief facts leading to dispute are that the Assessee is a registered firm showing income from business of manufacturing rubber flaps and re-treading of tyres. Return was filed by the Assessee declaring loss at Rs.86,170/- on 29.10.2001. During the assessment proceedings, the Assessing Officer noted that the Assessee had hypothecated its stock with Bank of India, Hauz Khas, New Delhi for availing overdraft facility. The details of stock hypothecated with bank quantity-wise and value-wise was obtained from the Bank, according to which the total value of stock was Rs.33,98,640/- whereas the Assessee had declared the valuation of closing stock at Rs.16,14,155/- in its books of accounts. The Assessing Officer, therefore, required the Assessee to explain the difference.

4. On behalf of the Assessee it was submitted that the valuation of stock was inflated in the statement furnished to the bank for obtaining the maximum cash credit limit. It was further added that because of the sudden closure of



the factory operation in November, 2002, the Assessee could not make any fresh purchases and consequently the sales also declined, creating lot of financial constraints and under these circumstances, there was no alternative but to inflate the stock so as to avail the maximum over draft limit.

5. The Assessing Officer rejected this explanation of the Assessee and made addition of Rs.17,84,486/- on account of the difference between the value of stock shown in the hypothecation statement and value of closing stock declared in the return.

6. Aggrieved by this order, Assessee filed an appeal before Commissioner of Income Tax (Appeals) [for short as 'CIT(A)']. Besides repeating the explanation taken by the Assessee before the Assessing Officer, a fresh plea was also raised by the Assessee that there was, no doubt, a difference of Rs.17,84,486/- but then there was also a difference of Rs.15,48,502/- in the value of stock as on the opening day. It was explained that the value of closing stock as on 31.3.2000 as per bank statement was Rs.40,06,760/- whereas in the balance sheet the same was



at Rs.24,58,257/-. Thus, a plea was made, that, if an addition to be made on account of difference between the stock shown to the bank and the stock shown in the balance sheet is to be confirmed, reduction should be allowed for the difference which was there in the opening stock. Thus, it was pointed out that net difference of Rs.2,35,983/- only (Rs.17,84,486/- to Rs.15,48,502/-) would be left which could be added as against the addition of Rs.17,84,486/-.

7. CIT (A) confirmed the addition in the difference of stock as made by the Assessing Officer (which has also been accepted by the Assessee), though he allowed the relief of Rs.15,48,502/- to the Assessee, accepting alternate plea of the Assessee that such difference in the valuation of closing stock is to be reduced by the similar difference in the opening stock.

8. Aggrieved thereby, the Revenue filed an appeal before the Tribunal who confirmed the order passed by the CIT (A).



9. It has been contended by the learned counsel for the Revenue that the Assessing Officer had added the difference only after considering the explanation made by the Assessee and the details obtained from bank. The Assessee could not substantiate its explanation qua discrepancy in valuation of closing stock. The opening stock of the current year is the closing stock of the immediately preceding year and therefore, if any relief is allowed in the current year on account of valuation of opening stock then the similar addition would have to be made in the immediately preceding year.

10. As per facts, the Assessee has fairly accepted the fact that there was a difference between the stock shown in the balance sheet and the stock shown to the bank. The difference in money value has been accepted. The only plea is that the difference of the value of the goods in the opening stock as between that shown to the bank and that shown to the department should be reduced.

11. It has been held by CIT (A) that:-

“The justice demands that reduction should be allowed for that part of the inflated cost



which pertains to the opening stock i.e. the closing stock of the last year. For that purpose, an addition of the equivalent amount for the inflated stock pertaining to the immediate assessment year is to be excluded. As for the year in question, a corresponding reduction will be allowed so as to avoid double addition.”

12. The Tribunal has also confirmed the findings of the CIT (A) on this issue. Further, both the authorities had taken into account the opening and closing stock of last year and have rightly excluded the inflated stock pertaining to the immediately preceding year. Thus, the approach of Tribunal cannot be said to perverse or erroneous.

13. In view of the above, no substantial question of law arises for consideration.

14. The appeal is accordingly dismissed.

V. B. GUPTA, J.

MADAN B. LOKUR, J.

April 09, 2008
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