



UNREPORTABLE

* **THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on : 05.08.2008
% Judgment delivered on : 11.08.2008

+ **ITA 694/2008**

**COMMISSIONER OF
INCOME TAX, DELHI-IV,
NEW DELHI**

..... Appellant

-versus-

**HOTLINE TELETUBE &
COMPONENTS LTD.**

..... Respondent

Advocates who appeared in this case:

For the Appellant : Ms.Prem Lata Bansal

For the Respondent : None

CORAM :-

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE RAJIV SHAKDHER**

1. Whether the Reporters of local papers may be allowed to see the judgment ?
2. To be referred to Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

RAJIV SHAKDHER, J

1. This is an appeal filed on behalf of the revenue under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as the said



Act) against the judgment and order of the Income Tax Appellate Tribunal dated 7.9.2007.

2. The revenue has preferred this appeal against the impugned judgment of the Tribunal only with regard to the provision for diminution in value of stock available with the assessee made on account of the stock having become obsolete and old.

3. The said issue arises in the background of the following brief facts:-

3.1 The assessee had filed a return on 20.10.2002 declaring a loss of Rs 51,031/-. The case of the assessee was picked up for scrutiny and a notice under Section 143(2) of the Act was issued. During the course of the assessment, it came to light that the assessee is in the business of manufacture of picture tubes of black and white television sets, as well as, glass shells for black and white picture tubes, electron gun and glass stems.

3.2 During the course of the assessment proceedings, the Assessing Officer sought explanation from the assessee with regard to provision in respect of diminution in value of stock. The Assessing Officer also sought the assessee's explanation as to why the provision be not added



back while computing the profit from business under Section 115JB of the said Act.

3.3 The assessee sought to explain the provision made in respect of diminution in value of stock by submitting that a sum of Rs.12,02,973/- debited to the profit and loss account was on account of obsolete and old picture tubes. It was the assessee's say that since the demand for black and white television picture tubes had diminished the inventory with respect to the same which it had been carrying for more than three years had become obsolete and hence, it was unable to sell the same which, prompted the assessee to write off the same as a loss.

3.4 The Assessing Officer by an order dated 30.3.2005 rejected the contention on the ground that such a provision cannot be allowed while computing the income of an assessee. The Assessing Officer concluded that such a claim can only be allowed when the material is actually sold. Consequently, the Assessing Officer disallowed the provision for diminution in value of stock in the sum of Rs12,02,973/-.

3.5 Being aggrieved, the matter was taken up in appeal by the assessee to the Commissioner of Income Tax (Appeals) [in short CIT (Appeals)]. The CIT (Appeals) vide order dated 16.8.2005 sustained the finding of the Assessing Officer. The CIT (Appeals) held that the



provision for diminution in value of stock could not be allowed as the loss in respect of the same was not a crystallized expense.

3.6 Being aggrieved, the assessee preferred an appeal with the Tribunal. The Tribunal by the impugned judgment allowed the appeal of the assessee. The Tribunal specifically noted the fact that the inventory in issue had not moved for a period of three years. It also observed that the assessee's stock had become scrap and incapable of further use. It also noted the fact that in the event the assessee was to sell the stock as scrap, the burden of excise would be higher than the value it would realize on the sale of the 'obsolete' stock as scrap. In these circumstances, the Tribunal allowed the loss claimed by the assessee on account of diminution in the value of obsolete stock.

4. It is well settled that closing stock is valued at cost or market price, whichever is lower. This principle is noticed by the Supreme Court in its judgment in the case of *CIT v. Hindustan Zinc Ltd.* reported in (2007) 291 ITR 391. In the said decision, the Supreme Court observed as follows:-

“.....The entry for stock which appears in a trading account is merely intended to cancel the charge for the goods purchased which have not been sold which should necessarily represent the cost of the goods. It is more or less than the cost, then the effect is to state the profit on



the goods actually sold. From this doctrine there is one exception, namely, the adoption of market value at the date of making up of accounts, if that value is less than the cost. This is in anticipation of the loss that may be made on the goods in the following year. While anticipated loss is taken into account, anticipated profit in the shape of appreciated value of the closing stock is not brought into the account as no prudent trade would care to show increased profits before actual realization. This theory that the closing stock is to be valued at cost or market price whichever is the lower, is now generally accepted as an established rule of commercial practice and accountancy.”

“.....To the same effect is the judgment of this Court in the case of **Commissioner of Income-tax v. British Paints India Ltd.** (1991) 188 ITR 44 (SC). In the said judgment it has been held that it is a well-recognized principle of commercial accounting to enter in the profit and loss account the value of the stock-in-trade at the beginning and at the end of the accounting year at cost or market price, whichever is the lower. Where the market value has fallen before the date **of valuation and where the market value of the article on that date is less than its actual cost, the assessee is entitled to value the articles at market value and thus anticipate the loss which he may incur at the time of the sale of the goods.** It was further held that **the correct principle of accounting is to enter the stock in the books of account at cost unless the value is required to be reduced by reason of the fall in the market value of the goods below the original cost.** Ordinarily, therefore, the goods should not be written down below the cost price except where there is an actual or anticipated loss. On the other hand, if the fall in the price is only such as it would reduce merely the prospective profit, there would be no justification to discard the initial valuation at cost.....”

(Underlining added)



5. In the instant case we find that the principle for valuing stock at cost or realizable market price whichever is lower is applicable. The assessee has demonstrated that the stock being obsolete did not move for over three years and also the fact that it could only be sold if at all as scrap. As a matter of fact, the assessee also established that in the event it is sold as scrap the burden of excise duty would be much more than what it could realize on sale of the said stock as scrap. The Tribunal has returned this as a finding of fact. In view of these findings, it is quite clear that, all that, the assessee has done by making the provision for diminution in value of stock is to anticipate the loss in the value of stock.

6. In the circumstances, we are of the view that no substantial question of law arises for our consideration.

7. Accordingly, the appeal is dismissed.

RAJIV SHAKDHER, J

BADAR DURREZ AHMED, J

August 11, 2008

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