



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

% *Reserved on : 4th December, 2012*
Date of Decision: 21st December, 2012

+ **ITA NO.521/2012**

SUZUKI MOTORCYCLE INDIA PVT LTD Appellant
 Through : Mr. Ajay Vohra, Ms. Kavita Jha and
 Mr. Somnath Shukla, Adv.

VERSUS

CITRespondent
 Through : Mr. N P Sahni, sr. standing counsel
 with Mr. Ruchesh Singh, Adv.

CORAM:
MR. JUSTICE S. RAVINDRA BHAT
MR. JUSTICE R.V. EASWAR

R.V. EASWAR, J.:

On 4.12.2012 the following substantial question of law was framed.

“Whether the Tribunal fell into error in disapproving the method adopted by the assessee in reporting the discounted value of raw material, components and consumable stores as on 31.03.2007.”

2. The brief facts giving rise to the appeal may be noted. We are concerned with the assessment year 2007-08. The appellant-assessee is a private limited company engaged in the manufacture and sale of motorcycles. In the return of income, an amount of ₹1,58,70,623/- was claimed as deduction on account of inventory written off. In the course of the assessment proceedings under Section 143(3) of the Act, the assessee was asked to justify the claim which it did by pointing out that the claim consisted of ₹1,23,36,086/- being the amount of raw



material component and consumables written off and ₹35,34,537/- being the amount of finished goods written off. The assessee claimed that it was consistently following the principle of “cost or net realizable value, whichever is less” in valuing its inventory, that in ascertaining the net realizable value it adopted a scientific working and arrived at a net realizable value of 91.05%, thereby adopting the write off factor at 8.50% and that the working was based on estimated cost of production and estimated value of the sales. It was also submitted by the assessee that in the automobile industry such write off was an accepted practice.

3. The assessing officer rejected the assessee’s explanation on the ground that such write off was only a prudent decision of a trader to set apart an amount for meeting the liability which was contingent and that there was no present obligation capable of commercial valuation which would justify the deduction. In this view he disallowed and added back the amount of ₹1,58,70,623/-.

4. The assessee carried the matter in appeal before the CIT(Appeals) who noted that the claim was supported by the accounting standards (AS-2) on “valuation of inventories” issued by the Institute of Chartered Accountants of India. He held as follows:

“The assessing officer, however, while passing the impugned assessment order did not make a suitable adjustment in the loss of the year under appeal as pointed out vide the revised computation of income filed by the appellant during the assessment proceedings for the year under appeal (refer page 57 of the paper book). The assessing officer failed to appreciate that since the aforesaid amount had already been taxed in the assessment year 2006-07, the same could not be brought to tax in the year under appeal and therefore, the loss of ₹116,48,29,528 had to be increased by the said amount of ₹8,68,81,641.

FINDING



The Assessing Officer is hereby directed to verify the facts and then allow the loss.”

5. The revenue carried the matter in appeal before the Tribunal and questioned the decision of the CIT(Appeals) to delete the addition. Its case was that the claim represented a contingent liability and was not allowable as deduction. The Tribunal, after adverting to the rival contentions in detail accepted the contention of the revenue and held that the valuation of the closing stock, both consumable items and finished goods, by applying the discount factor of 8.5% was not substantiated by the assessee and therefore the CIT(Appeals) was not justified in allowing relief to the assessee. The appeal of the revenue was accordingly allowed.

6. The assessee is in further appeal before this Court under Section 260A of the Act. The submission on its behalf is that the accounting standards issued by the Institute of Chartered Accountant of India were mandatory and was consistently followed in all the subsequent years and so long as the fall in the market value of the finished goods below the cost of production is not doubted, the estimate of 8.5% also cannot be doubted or held to be without any basis. Our attention was drawn to Annexure G which depicts the working of the writing down of the raw material, components and consumables to the net realizable value. It is submitted that the chart given in Annexure G supports the assessee's plea and it is submitted that the Tribunal erred in overlooking these details.

7. On the other hand the learned standing counsel for the income tax department strongly relied on the findings of the Tribunal, particularly the finding that the write off factor of 8.5% was only an estimate which was not proved by the assessee. It was accordingly, contended that the order of the Tribunal should be upheld.



8. We have carefully considered the facts and the rival contentions. The figures set out in the chart in Annexure G have been culled, according to the counsel for the assessee, from the accounts themselves and therefore deserve a look. There is no dispute that the principle “cost or net realizable value, whichever is lower” is an accepted method of valuation of inventory. There is also no dispute that AS-2 issued by the Institute of Chartered Accountants of India are binding on both the assessee as well as the tax authorities under Section 145 of the Act. The only objection of the revenue, accepted by the Tribunal, is that the write off factor of 8.5% has not been proved by the assessee. The figures which are set out by the assessee in Annexure G show how the assessee arrived at the write off factor. These figures have to be verified by the Assessing officer. While therefore holding that the Tribunal was not right in accepting the revenue’s contention in principle, we direct the assessing officer to verify the figures furnished by the assessee in support of the write off factor of 8.50% and complete the assessment afresh on this limited issue. The substantial question of law is accordingly, answered in favour of the assessee, subject to the remit order passed by us.

The appeal is allowed in the aforesaid terms with no order as to costs.

(R.V. EASWAR)
JUDGE

(S. RAVINDRA BHAT)
JUDGE

DECEMBER 21, 2012
vld