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

+ INCOME TAX APPEAL NOS.110/2012 & 111/2012

(Assessment Year: 2005-06)

Date of decision: 21st August, 2013

WOODWARD GOVERNOR INDIA LTD.

..... Appellant

Through Dr. Rakesh Gupta, Ms. Rani Kiyala
& Mr. Rishabh Kapoor, Advocates.

versus

COMMISSIONER OF INCOME TAX

..... Respondent

Through Mr. Amol Sinha, Sr. Standing
Counsel & Mr. Rahul Kochar, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

SANJIV KHANNA, J. (ORAL):

Having heard counsel for the parties, the following substantial
question of law is framed:-

“Whether the Income Tax Appellate Tribunal
was justified in disallowing Rs.39,59,118/- on
account of provision for warranty?”

2. Learned counsel for the parties have addressed arguments as a
short issue is involved and is covered by an earlier decision of this
Court in ***Commissioner of Income Tax versus Woodward Governor***



India Limited, 2010 (321) ITR 147 (Del).

3. The aforesaid decision in **Woodward Governor India Limited** (supra), which pertains to Assessment Year 2004-05, accepts the legal position that provision for warranty can be allowed as an expenditure under Section 37(1) of the Income Tax Act, 1961 (Act, for short). The other question, i.e., how much or the quantum of expenditure, which should be allowed, it has been held, depends upon facts and circumstances of each case. The working of the figure or quantum of the provision for warranty has to be rational and scientific.

4. Similar view has been taken by Delhi High Court in **Commissioner of Income Tax versus Whirlpool of India Limited**, 2011 (242) CTR (Del) 245 wherein it has been observed that provision for warranty should be based on actuarial valuation with reference to the products sold during the year. This amount can be treated as expenditure under Section 37(1) on the principle of matching. Further, depending upon the past history, the quantum of provision for warranty can be increased or decreased. However, the provision, which is allowed towards warranty claim, should be based upon scientific study and actuarial basis.

5. In the present year the provision for warranty and the warranty expenses debited to the profit and loss account were as under:-



Particulars	Amount in Rs.
Opening balance as on 1.4.2005	52,58,505/-
Add; Provision created during the year	39,59,118/-
Less: Expenses charged off out of provision	33,35,506/-
Closing balance as on 31.3.2006	58,82,118/-
<u>Warranty Expenses debited to P&L A/c</u>	
Actual warranty expenses	21,07,644/-
Warranty provided during the year	39,59,118/-
Amount debited to P&L A/c	60,66,762/-

6. It is clear from the aforesaid chart that the assessee had incurred total expense of Rs.54,43,150/- (Rs.33,35,506/- + Rs.21,07,644/-). However, provision for warranty expenses was made for Rs.39,59,118/-. In other words, the assessee in the profit and loss account had debited an amount of Rs.60,66,762/- (Rs.39,59,118/- + Rs.21,07,644/-). The tribunal in paragraph 26 of the impugned order has noticed that the appellant had made provision for warranty on sales for a period of eighteen months for the Assessment Year 2004-05 and they had applied rate of 1.10% towards provision for warranty claims. There appears to be confusion in the order of the tribunal in paragraphs 26 to 28 on the computation aspect/claim. Tribunal has remanded the question to the Assessing Officer after making some observations.



7. The appellant has filed before us chart showing details provision for warranty as claimed by them for Assessment Year 2005-06 onwards and also a step chart to justify the provision for warranty expenses.

8. As we perceive, the real question and issue is whether the provision of warranty as claimed is based upon scientific and rational basis or not. Provision for warranty on the basis of principle for matching can be allowed but the amount claimed should have some rational and scientific basis and it cannot be on mere ipsi dixit. This is clear from the two decisions in **Woodward Governor India Limited** (supra) and **Whirlpool of India Limited** (supra). In the last decision it has been held that provision for warranty has to be on actuarial valuation.

9. In view of the aforesaid position, we feel that the matter requires in-depth and proper factual examination by the adjudicating authorities and were inclined to remand the matter to the tribunal to examine the said issue keeping in view the figures, charts etc. and after ascertaining the basis, period etc. However, learned counsel for the appellant submitted that the matter may be remanded to the Assessing Officer, as a detailed scrutiny of accounts and figures would be required. Learned counsel for the Revenue states that he has no objection. Tribunal has also



remitted the question of computation to the Assessing Officer.

10. In view of the aforesaid position, we answer the question of law mentioned above partly in favour of the appellant-assessee but with an order of remand to the Assessing Officer, who will examine the provision for warranty as claimed, including the actual warranty expenses incurred during the year and then determine and decide the quantum of the claim. The Assessing Officer while making the said computation will not be influenced by the observations made by the tribunal in the impugned order and will independently apply his mind. The appeal is disposed of. No costs.

SANJIV KHANNA, J.

SANJEEV SACHDEVA, J.

**AUGUST 21, 2013
VKR**