

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "H" : DELHI]

BEFORE SHRI G. S. PANNU, PRESIDENT

A N D

SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No. 3530/Del/2019
निर्धारणवर्ष /Assessment Years: 2012-13

M/s. GK Steel & Wire Products 3650, Gali Rura, Aachar Wali, Chawri Bazar, New Delhi - 110 006.	बनाम Vs.	Income Tax Officer, Ward : 46 (5), New Delhi.
PAN No. AAAFG4399Q		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे /Assessee by :	Ms. Neha Gupta, C. A.; & Shri Rajat Vaishnawi, Adv.
राजस्वकीओरसे / Department by :	Shri M. Baranwal [CIT]-D.R.; & Shri Sanjay Kumar, Sr. D. R.

सुनवाईकीतारीख/ Date of hearing :	10/02/2023
उद्घोषणाकीतारीख/Pronouncement on :	11/04/2023

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the assessee against the order of the
ld. Commissioner of Income Tax (Appeals)-16 [hereinafter referred

to CIT (Appeals)] New Delhi, dated 5.01.2018 for assessment year 2012-13 in sustaining the addition of Rs.25,32,724/- on account of stock difference.

2.1 The Id. Counsel for the assessee submits that the assessee is a Partnership firm engaged in trading of hardware goods filed its return of income on 30-03-2013 declaring 'NIL' income. However, a defect was pointed out and return under section 139(9) of the Act was filed on 16-09-2013. During the year under consideration, it was observed that some of the stock items were damaged due to rust and the sales realization was lower than the cost. Therefore, the closing stock was valued at market value in accordance with firm's policy of valuation of stock 'at cost or market price, whichever is lower'. The assessee returned loss of Rs.28,78,082/- during Assessment Year 2012-13. However, the same was not carried forward to the next assessment year since the return was filed after due date specified under section 139(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') as can be seen from copy of ITR filed for AY 2013-14. The Ld. Assessing Officer made addition of the gross loss of Rs.25,32,724/- reported by the assessee in its Trading account for the year ending 31st March 2012. The Stock is valued as per firm's policy of 'at cost or market price, whichever is lower'. The Ld. AO has not specified any rational basis for the purpose of not accepting the gross loss incurred or closing stock reported by the assessee.

2.2 The Id. Counsel submits that the revaluation of closing stock is revenue neutral. The closing stock becomes the opening stock in next financial year, as such there will be a chain effect if the value

adopted by the assessee is disturbed. Therefore, it becomes revenue neutral as the assessee firm is taxed at uniform rate of tax. Unless the opening stock of subsequent financial year is also adjusted, it will give distorted figure.

3. The assessee relied on the following judgements:-

(i) Pr. CIT v. Deccan Mining Syndicate (P.) Ltd.

[(2019) 104 taxmann.com 111/262 Taxman 258 (SC)];

(ii) CIT vs Bilahari Investment (P.) Ltd.

[(2008) 299 ITR 1 (SC)];

(iii) CIT vs Triveni Engg. & Industries Ltd.

[(2011) 336 ITR 374 (Delhi High Court)]

(iv) Housing & Urban Development Corporation Ltd. Vs Addl. CIT

[(2020) 421 ITR 599 (Delhi High Court)]

(v) M/s Rasiklal & Sons vs ITO

[ITA No. 1974/Mum/2010 - order dated 13.01.2012 (Mum.-Trib.)]

(vi) Gogga Gurusanthiah & Bros. vs DCIT

[(2019) 108 taxmann.com 600 (Bangalore Trib.)]

4. The ld. DR supports the orders of the authorities below.

5. Heard rival contentions. The main contention of the assessee is that the value of the opening stock of the assessee has gone down resulting in gross loss of Rs.25,32,724/-. The ld. Counsel submits that this is because due to rust stock and the sales realization was lower than the value of opening stock so that the assessee has

suffered loss. The assessee contended that in earlier period the closing stock was valued on purchase price which is not saleable in the market. It was also contended that the assessee has decided to value the stock on realization value of market rate so that rust stock was valued at lower price than purchase price. The loss was not carried forward. Considering the submissions of the assessee, we are of the view that this matter has to go back to the file of the Assessing Officer to examine the contentions of the assessee and the valuation of opening and closing stocks. Thus, we restore this issue to the file of the Assessing Officer for examining afresh and to decide in accordance with law after providing adequate opportunity of being heard to the assessee. Grounds raised by the assessee are allowed.

6. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on : 11/04/2023.

Sd/-
(G. S. PANNU)
PRESIDENT

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 11/04/2023.

MEHTA

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

1. आवेदक / Assessee
2. राजस्व / Revenue

3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, DELHI /
DR, ITAT, DELHI
6. गार्ड फाइल / Guard file.

By order

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	24.03.2023
Date on which the typed draft is placed before the dictating Member	27.03.2023
Date on which the typed draft is placed before the Other Member	11.04.2023
Date on which the approved draft comes to the Sr. PS/PS	11.04.2023
Date on which the fair order is placed before the Dictating Member for pronouncement	11.04.2023
Date on which the fair order comes back to the Sr. PS/PS	11.04.2023
Date on which the final order is uploaded on the website of ITAT	11.04.2023
Date on which the file goes to the Bench Clerk	11.04.2023
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	