

CTR ENCYCLOPAEDIA ON INDIAN TAX LAWS

COMMISSIONER OF INCOME TAX vs. DYNAVISON LTD.

SUPREME COURT OF INDIA

S. H. KAPADIA CJI & MADAN B. LOKUR, J.

Civil Appeal No. 197 OF 2005

30th August, 2012

(2012) 82 CCH 0211 ISCC

Legislation Referred to

S (2012) 76 DTR (SC) 351 (2012) 252 CTR (SC) 351 (2012) 348 ITR 380 (SC) (2012) 210 TAXMAN 239 (SC) Section 143(3) and section 3 of Central Excise Act, 1944

Case pertains to

Asst. Year 1987-88

Decision in favour of:

Assessee

Account—Valuation of closing stock—Addition—Deletion thereof—For A.Y. 1987–1988, AO found that assessee had not included element of excise duty in closing stock—He made addition to income of assessee on ground of undervaluation of closing stock—However, AO conceded that he revalued closing stock without making any adjustment to opening stock—CIT(A) deleted addition made by AO—Held, assessee had been following consistently method of valuation of closing stock which is "cost or market price whichever is lower"—Though u/s 3 of Central Excise Act, 1944, levy of excise duty is on manufacture of finished product, same is quantified and collected on value—In view of judgment in case of Chainrup Sampatram vs. CIT, 24 ITR 481 valuation of unsold stock at close of accounting period was a necessary part of process of determining trading results of that period—It cannot be regarded as source of profits—Entry for stock which appears in trading account is intended to cancel charge for goods bought which have remained unsold which should represent cost of goods—Therefore, addition to income of assessee on ground of undervaluation of closing stock was wrong—Impugned order of CIT(A) upheld—Revenue's appeal dismissed

Held :

The assessee has been following consistently the method of valuation of closing stock which is "cost or market price whichever is lower". Moreover, the AO conceded before the CIT(A) that he revalued the closing stock without making any adjustment to the opening stock. Lastly, though under s 3 of the Central Excise Act, 1944, the levy of excise duty is on the manufacture of the finished product the same is quantified and collected on the value (ie selling price). In the case of Chainrup Sampatram v CIT 24 ITR 481, it has been held that "valuation of unsold stock at the close of the accounting period was a necessary part of the process of determining the trading

results of that period. It cannot be regarded as source of profits. That, the true purpose of crediting the value of unsold stock is to balance the cost of the goods entered on the other side of the account at the time of the purchase, so that on cancelling out of the entries relating to the same stock from both sides of the account would leave only the transactions in which actual sales in the course of the year has taken place and thereby showing the profit or loss actually realized on the year's trading. The entry for stock which appears in the trading account is intended to cancel the charge for the goods bought which have remained unsold which should represent the cost of the goods."For the above reasons, it was held that, the addition of ? 16,39,000 to the income of the assessee on the ground of undervaluation of the closing stock was wrong and that the order of CIT(A) was accordingly upheld. Consequently, this civil appeal filed by the department was dismissed. Chainrup Sampatram v CIT 24 ITR 481, relied

Conclusion :

Valuation of unsold stock at the close of the accounting period is a necessary part of the process of determining the trading results of that period and cannot be regarded as source of profits.

In favour of :

Assessee

Cases referred:

Chainrup Sampatram vs. CIT, reported in 24 ITR 481

CIT vs. Hindustan Zinc Ltd. reported in 291 ITR 391

Counsel appeared:

Rajiv Dutta,Sr.Adv. Rupesh Kumar,Adv. N. Annapoorani,Adv. Anil Katiyar,Adv. B.V. Balaram Das,Adv. for the Appellant

ORDER

Heard learned counsel for the Department.

The civil appeal filed by the Department is dismissed.

No order as to costs.

ORDER

Assessee is a private limited company. It carries on the business of manufacture and sale of television sets. For the Assessment Year 1987-88 the AO while computing the assessment under Section 143(3) found that the assessee had not included in the closing stock the element of excise duty. Accordingly, he added a sum of Rs. 16,39,000/- to the income of the assessee on the ground of undervaluation of closing stock.

The question before us is whether the department is right in alleging that the closing stock is undervalued to the extent of Rs. 16,39,000/-?

At the outset, it may be stated, that, it is not in dispute that the assessee has been following consistently the method of valuation of closing stock which is "cost or market price whichever is

lower." Moreover, the AO conceded before the CIT(A) that he revalued the closing stock without making any adjustment to the opening stock (see: page 50 of the Paper Book). Lastly, though under section 3 of the Central Excise Act, 1944, the levy of excise duty is on the manufacture of the finished product the same is quantified and collected on the value (i.e. selling price). Before concluding, we may rely on judgment of this Court in the case of Chainrup Sampatram vs. CIT, reported in 24 ITR 481 in which it has been held that, "valuation of unsold stock at the close of the accounting period was a necessary part of the process of determining the trading results of that period. It cannot be regarded as source of profits. That, the true purpose of crediting the value of unsold stock is to balance the cost of the goods entered on the other side of the account at the time of the purchase, so that on cancelling out of the entries relating to the same stock from both sides of the account would leave only the transactions in which actual sales in the course of the year has taken place and thereby showing the profit or loss actually realized on the year's trading. The entry for stock which appears in the trading account is intended to cancel the charge for the goods bought which have remained unsold which should represent the cost of the goods", (see also : para 8 of the judgment of this Court in the case of CIT vs. Hindustan Zinc Ltd. reported in 291 ITR 391).

For the above reasons, we hold, that, the addition of Rs. 16,39,000/- to the income of the assessee on the ground of undervaluation of the closing stock was wrong and that the order of CIT(A) is accordingly upheld. Consequently, this civil appeal filed by the department is dismissed with no order as to costs.

© Wolters Kluwer (India) Pvt. Ltd.