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

\+ ITA 39/2021

PR. COMMISSIONER OF INCOME TAX - 1 ..... Appellant

Through: Ms. Hemlata Rawat and Ms. Easha, Advs for Mr. Sanjay Kumar, Adv.

versus

A.V VALVES LTD ..... Respondent

Through: Mr.Somil Agarwal, Mr.Prateek Bhati and Ms.Astha Chhabra, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **07.02.2024**

1. The instant appeal is directed against the order of the Income Tax Appellate Tribunal ['**ITAT**'] dated 04 September 2019.

2. The appellant proposes the following questions of law for our consideration:-

(a) Whether in the facts and circumstances of the case and in law, ITAT erred in upholding the order of Commissioner of Income Tax (Appeals) ["**CIT(A)**"], deleting the addition of Rs 3,67,85,716/- made on account of disallowance of claim under "Rejection & demurrage" account?

(b) Whether in the facts and circumstances of the case and in law, ITAT erred in upholding the order of CIT(A), because there was no rejection of material during the year as event of rejection occurred in the subsequent year, hence loss if any can't be claimed in the previous year relevant to the AY 2012- 13?

(c) Whether in the facts and circumstances of the case and in law, ITAT erred in upholding the order of CIT(A), because even otherwise the value of goods returned should have been included in the closing stock as per the accounting principle as subsequently goods were sold instead of writing off it entirely in the books of accounts as "demurrage"?

3. We also take note of the observation which appear in our order dated 15 February 2021. Quite apart from the issues which stood flagged by us in that order, we note that the solitary question which is pressed before us is with respect to the rejected material valued at Rs.3,67,85,716/-

4. The ITAT has noted that the aforesaid had been duly accounted for in the subsequent years and offered to tax. It was in the aforesaid backdrop that it ultimately held that no loss to the Revenue was caused.

5. We take note of the following extracts from the order of the CIT(A) which have also been noticed by the ITAT:-

> "6. After considering the facts and submissions. Id. CIT(A) observed as under:-
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> "I have examined the details placed on record which include the ledger accounts of these parties, where these rejections were credited in their accounts, and subsequent ledger accounts of the subsequent years when these parties were debited again against the rejected material after rectifications made in the defective material. I have also verified the subsequent years balance

sheets of the appellant assessee, where these amount received against these rejection has been shown as income. Appellant has furnished a chart showing the income in the subsequent years against the rejected claimed in Asstt. Year 2012-13. For the sake of convenience the same is reproduced here under:

DETAILS of REJECTION INCORPORATED IN NON-OPERATIONAL INCOME (WARRENTY WRITTEN BACK)

							REMARK		
NAME OF THE PARTY	PLACE	CONSIGNEE	BILL NO	BILL AMOUNT	REJECTION AMOUNT	LATE DELIVERY DEDUCTION	AGAIN INCORPORATED IN NON-OPERATIONAL INCOME		
							DATE	AMOUNT	RELEVAN
BHEL LTD	NOIDA	TALCHAR SITE	55/360	5051527	5051527		31.03.201		
						508080	31	9978301	2014-15
BHEL LTD	NOIDA	TALCHAR SITE	55/361	5434854	5434854		31.03.2014		
BHEL LTD	NOIDA	KAKATAIYA	55/350	5627746	5627746		31.03.2015	5627746	2015-16
BHEL LTD	NOIDA	KHANDWA SITE	55/364	4088120	4088120		31.03.201	4088120	2015-16
BHEL LTD	NOIDA	KHANDWA SITE	55/365	4816431	4816431		31	4816431	2015-16
MCCAPTA	KOIKATT		55/215	1843790	1843790	251402	31.03.201	159288	2015-16
ANRAK ALUMINIU		VISHKHAPATNAM	55/336	5961474	4974707		31.03.2016	4974707	2016-17
SMS	GURGAON		55/279	4948540	4948540		31	4948540	2016-17
				37772482	36785715	759482		36026233	

SUMMARY OF NON-OPERATIONAL INCOME OFFERED FOR TAXATION IN FOLLOWING ASSESSMENT YEARS:

1	AY.2014-15	9978301
2	AY.2015-16	16124685
3	AY.2016-17	10682729
		36785715

I have verified the Profit and Loss accounts for these subsequent years and find that except an amount of Rs. 7,59,482/- the entire balance amount of Rs.3,60,26,233/- (Rs. 3,67,85,715/- - Rs. 7,59,482/-) has been shown by the assessee as its income in the Asstt. Years 2014-15, 2015-16 an AY 2016- 17. Thus, <u>there is no loss to the Revenue as there is no change in slab rates as well being it a case of a company.</u> The appellant had relied upon the judgment Hon'ble Delhi High Court in the case of CIT vs Vishnu Industrial Gases Pvt. Ltd. ITA 229/1988 dated 06.05.2008 and CIT vs Dinesh Kumar Goel 331 ITR 10 (Del.) wherein it is held that it does not matter in which year the income is accounted for, the tax rate is same".`

6. In view of the aforesaid, we find that the appeal raises no substantial question of law. It shall consequently stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 07, 2024/MJ