

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 08<sup>TH</sup> DAY OF MARCH, 2016

PRESENT

THE HON'BLE MR. JUSTICE JAYANT PATEL

AND

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

**I.T.A. NO.532/2015**

**BETWEEN:**

1. PR. COMMISSIONER OF  
INCOME TAX, C.R. BUILDINGS,  
QUEENS ROAD,  
BANGALORE - 560 001.
2. THE JOINT COMMISSIONER  
OF INCOME TAX, CIRCLE-  
12(3) BANGALORE - 560 001. ... APPELLANTS

(BY SRI: K.V.ARVIND, ADVOCATE)

**AND:**

M/S. STCL LIMITED,  
3<sup>RD</sup> FLOOR, STC TRADE CENTRE,  
NANDINI LAYOUT,  
BANGALORE - 560 096. ... RESPONDENT

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THIS ITA IS FILED UNDER SEC.260-A OF INCOME TAX  
ACT 1961, ARISING OUT OF ORDER DATED:09/04/2015  
PASSED IN ITA NO.1482/BANG/2013, FOR THE ASSESSMENT  
YEAR 2009-2010 AND ETC.,

THIS ITA COMING ON FOR ADMISSION THIS DAY,  
**JAYANT PATEL J.,** DELIVERED THE FOLLOWING:-

## **J U D G M E N T**

The appellant – Revenue has preferred the present appeal, by raising the following substantial question of law:-

*"Whether, on the facts and in the circumstances of the case, the Tribunal erred in deleting the addition made by assessing authority on the ground that once the purchases are accepted by the assessing authority and are duly accounted for in the particular year, the loss due to fall in value of stocks represented by those purchases has to be allowed even when the method of accounting adopted by the assessee company for A.Y. 2009-10 was not accordance with the method of accounting regularly employed by the Company, as enunciated in the provisions of section 145A of the Act"?*

2. We have heard Mr.K.V.Arvind, learned counsel appearing for the appellant – Revenue.

3. We may record that the Tribunal while dealing with the contention of the assessee and the

appellant -Revenue on the aforesaid aspect, has observed at Paragraph Nos.9 and 10 as under:-

"9. A lot of emphasis has been placed by the Assessing Officer on the question as to whether the inclusion of iron ore in transit, which was lying at various ports and was stated to be in possession of the assessee, in the closing stock was in accordance with the method of accounting regularly followed by the assessee or not. That aspect of the matter is, however, wholly immaterial because even if this stock was not to be included in the closing stock, the losses on purchase of iron ore, which was so clearly anticipated a loss and which could be reasonably quantified, was admissible as a deduction. When a trader agrees to buy a product at x value and the market price as on the time of finalizing the books of accounts is much less at, say 'y' value, the loss represented by x-y is very much an anticipated loss on the purchase transaction and is admissible for deduction as such in computation of business profits. Be that as it may, once the assessee is in custody of the iron and ore at the various ports, there cannot be any good reason not to include it in the closing stock. There is no dispute that the assessee had placed order for these goods and the prices at which the order was placed is

*also not in dispute. Whether the goods ordered by the assessee have been received by the assessee or not is a matter of fact, and the inclusion of goods so received in the closing stock is only a natural corollary of the goods having been received by the assessee. There is no change in the method of valuation of closing stock as it was always valued at the cost price or market price-whichever is less. We are unable to see any legally sustainable merits in the objections raised by the assessee.*

*10. Learned CIT(A) has, in her impugned order, raised doubts about genuineness of the purchases itself by questioning the reversal of entries in the subsequent year. We cannot, at this stage, sit in judgment over correctness of or impact of the accounting entries in the subsequent years. On the contrary, when assessee has offered this amount of Rs.29.50 crores to tax in subsequent year, for whatever reasons other than incorrectness of this fall in value of stock, this addition amounts to double addition of income. All that is material for us is whether the fall in value of stock to the tune of Rs. 29.50 crores should have been allowed as a deduction in this year, i.e. assessment year*

2009-10, or not . We are concerned with the assessment year 2009-10 only and, for the detailed reasons set out above, in our considered view the reduction in the value of closing stock, particularly in the light of the fall in the value of iron ores- as tabulated in page 6 of learned CIT(A)'s order and as reproduced below paragraph 5 earlier in this order, was quite justified. We hold so. In any case, the Assessing Officer has made adjustment only for the value of closing stock but once the purchases are accepted by the Assessing Officer and are duly accounted for in this particular year, there cannot be any good reason to decline loss in fall in value of stocks represented by that purchases. In the light of these discussions, as also bearing in mind entirety of the case, we uphold the grievance of the assessee and direct the Assessing Officer to delete the impugned addition of Rs. 29.50 crores. The assessee gets the relief accordingly."

4. The aforesaid shows that, what has been held by the Tribunal is availability of the deduction on account of the reduction in the value of stock in trade. The Tribunal has further recorded the finding of fact that the custody of iron ore was with the assessee

lying at various ports. Further, the Tribunal also found that there is no change in the method of valuation of closing stock, as it was always valued at the cost price or market price, whichever is less. The Tribunal further recorded that when the assessee has offered its amount of Rs.29.50 Crores to tax in subsequent year, for whatever reason, other than incorrectness of this fall in value of stock, this addition amounts to double addition of income and ultimately, the Tribunal found that the order passed by the Assessing Officer for deletion of the entry and its confirmation thereof, by CIT(Appeal), deserves to be set aside.

5. Learned counsel for the appellant – Revenue has made a two fold submission. One is regarding the correct accounting procedure not followed by the assessee. He submitted that in the earlier year, prior to the assessment year in question, the goods were not shown as stock in trade, but in the account the same was treated as loans and advances. In the subsequent year, to the assessment year in question,

again the same method has been adopted. He therefore submitted that an unusual method was adopted in accounting by treating the amount of loans and advances as that of the stock in trade and further, lowering down the valuation thereof, to claim the deduction, was uncalled for and the same cannot be said to be permissible in law. He also submitted that if such a practice is permitted, the resultant effect would be that the tax for a particular assessment year would get shifted to next assessment year, which is not permissible and in support of his contention, he also relied upon a decision of the apex Court in case of **Commissioner of Income Tax vs. British Paints India Ltd. [(1991) 188 ITR 44]** and more particularly, the observations made at Paragraph 21 of the said decision. He therefore submitted that this Court may consider the matter accordingly.

6. On the first aspect, in our view, the contentions raised cannot be accepted for the simple reason that the payment made is undisputed. The

custody of the goods namely, iron ore as that of the assessee, though may be lying at the various ports, is also undisputed. When the assessee has made the payment for purchase of a particular quantity of material and the goods are lying in the custody of the assessee, though may be at various ports, the same could validly be termed as stock in trade. If the value of such stock in trade has gone down, the deduction for the difference of the price is permissible. On the contrary, if the appellants' contention is accepted, then in the succeeding year when it is offered to tax for the amount of Rs.29.50 Crores and the deduction is made impermissible, it would result into double taxation.

7. On the second aspect, it is not a case of the revenue that with a view to avoid real tax, the book entries were shown lowering down the value of the stock. On the contrary, it is on account of the objection raised by C.A.G., that the assessee has correctly valued the stock on trade at the market

price, prevailing then. The case of manipulation for avoiding the payment of tax stands on a different footing, but the same has not been pleaded before the Tribunal in the instant case. The decision upon which reliance has been placed cannot be made applicable to the facts of the present case, when the factum of payment made by the assessee and the goods in custody of the assessee, are not in dispute. There is no question of shifting the tax liability from one year to another as sought to be canvassed, in the instant case.

8. We do not find any substantial question of law arising for our consideration. Hence, the appeal is dismissed.

Sd/-  
JUDGE

Sd/-  
JUDGE

*\*mvs*