

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

**ITA 441/2007**

**COMMISSIONER OF INCOME TAX DEL ..... Appellant  
Through Mrs. Prem Lata Bansal, Adv.**

**versus**

**HEYNON INDIA LTD. .... Respondent  
Through**

**CORAM:  
HON'BLE MR. JUSTICE MADAN B. LOKUR  
HON'BLE DR. JUSTICE S.MURALIDHAR**

**O R D E R  
05.12.2007**

**The Revenue is aggrieved by an order dated 22nd September, 2006 passed by**

**the Income Tax Appellate Tribunal, Delhi Bench H , New Delhi (the Tribunal )**

**in ITA No. 3187/Del/2003 relevant for the Assessment Year 1998-1999.**

**According to learned counsel for the Revenue the tax effect in this case on a notional basis is about Rs. 47.65 lakhs, although she does not deny that**

**the Assessee has been assessed at a loss. According to learned counsel for the**

**Revenue deletion of additions made by the Assessing Officer (AO) will be carried**

**forward to the subsequent years and may reduce the taxable income**

ITA No. 441/2007 Page 1  
of 4

for those years. Therefore, according to her, the appeal may be entertained.

Notwithstanding the fact that the tax effect is nil, we have heard the matter on merits.

Learned counsel for the Revenue has urged two issues. The first is with regard to the deletion by the CIT (A) and the Tribunal of an addition of Rs.54.46 lakhs made by the AO on account of a discrepancy between the accounts

of M/s Polar Industries Ltd. in the assessee's account and the accounts maintained by M/s Polar Industries Ltd.

It appears that M/s Polar Industries Ltd. maintains one account of the Assessee in its books of accounts, while the Assessee maintains three different

accounts - two under the head `Sundry Creditors account for FBD and Pump

Division and one unsecured loan account.

According to the Assessee, the difference arose on account of the fact that the amount was debited by M/s Polar Industries Ltd. but a corresponding

entry was not made by the Assessee.

The CIT(A) was of the view that even if the Assessee was associated with Polar Group of Industries, it was possible for such a discrepancy to arise in

the normal course of dealings between the parties. The CIT(A) was satisfied

with the explanation of the Assessee and held that it has been able to

ITA No. 441/2007 Page 2  
of 4

reconcile the difference in the balance as pointed out by the AO. Accordingly,

the addition of Rs.5446789/- was deleted by the CIT(A). As mentioned above,

this has been upheld by the Tribunal on the same ground as the CIT(A).  
On

examining this issue, we find that the view taken concurrently by the  
CIT(A) and

the Tribunal is a reasonable view based on the explanation tendered by  
the

Assessee and is not vitiated by any perversity. We do not find that any  
substantial question of law arises out of this finding.

The second issue urged by learned counsel for the Revenue is with regard  
to the addition of Rs.81.68 lakhs being the difference between reduction in  
value of stock and the sale price. The CIT(A) was of the view that the

valuation of stock had been carried out by the Assessee in a reasonable  
manner.

The market value had been taken to be the average of the sale value of the  
goods

during the year. The CIT(A) observed that this manner of valuation was in  
accordance with the method consistently followed by the Assessee. It was  
also

found that a decrease in stock of Rs.1.09 crores was partly due to the sale  
of

finished goods at lower than cost and partly due to diminution in the value  
of

the closing stock. The explanation given by the Assessee for making loss  
on

such sales was found by the CIT(A) to be reasonable and supported by  
documentary evidence, which ought not to have

ITA No. 441/2007 Page 3

of 4

been ignored by the AO.

The Tribunal accepted the view of the CIT(A) and added that the AO has  
not made out any case that the Assessee realized an amount more than  
that

declared in the sales invoices.

We find that no substantial question of law arises out of this finding as

**well, based as it is on facts. There is no merit in the appeal.  
Dismissed.**

**MADAN B. LOKUR, J**

**S.MURALIDHAR, J  
DECEMBER 05, 2007  
vk**