

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH : KOLKATA

[Before Hon’ble Shri M.Balaganesh, AM & Shri S.S.Viswanethra Ravi, JM]

I.T.A No. 1401/Kol/2013

Assessment Year : 2009-10

DCIT, Circle-7, Kolkata

-vs-

M/s BCH Electric Ltd. (formerly
Known M/s Bharti Industries Ltd.).
[PAN: AABCB 2076 M]

(Appellant)

(Respondent)

C.O. No. 96/Kol/2013

(Arising out of I.T.A No. 1401/Kol/2013)

Assessment Year : 2009-10

M/s BCH Electric Ltd. (formerly
Known M/s Bharti Industries Ltd.)

-vs-

DCIT, Circle-7, Kolkata

[PAN: AABCB 2076 M]

(Cross Objector)

(Respondent)

For the Assessee : Shri S. Jhajharia, FCA

For the Revenue : Shri S. Dasgupta, Addl. CIT(DR)

Date of Hearing : 05.03.2018

Date of Pronouncement : 09.03.2018

ORDER

Per M.Balaganesh, AM

1. This appeal by the Revenue and the Cross Objection by the Assessee arise out of the order of the Learned Commissioner of Income Tax(Appeals)-VIII, Kolkata [in short the Id CIT(A)] in Appeal No.341/CIT(A)-VIII/Kol/11-12 dated 28.02.2013 against the order passed by the ACIT, Range-7, Kolkata [in short the Id AO] under section 143(3) of the Income Tax Act, 1961 (in short “the Act”) dated 30.12.2011 for the Assessment

Year 2009-10. Both the appeal of the revenue and cross objection of the assessee are taken together and disposed off by this common order for the sake of convenience.

2. The cross objection preferred by the assessee was stated to be not pressed by the Id. AR for which necessary endorsement was made in our file. Accordingly the cross objection of the assessee is dismissed as not pressed.

3. The first issue to be decided in this appeal of the revenue is as to whether the Id. CIT(A) was justified in allowing the claim of pre-operative expenses of Rs. 3,01,21,223/-, in the facts and circumstances of the case.

3.1. The brief facts of this issue is that the assessee is a domestic company engaged in the business of manufacturing of switch gear, control gear and automation, electronic motors, wires and cables, breaks and crane controls. The factory of the assessee company is situated at Faridabad, Haryana. The company is also having two branches in Mumbai and New Delhi. The assessee company had filed its return of income for the assessment year 2009-10 on 30.09.2009 disclosing net loss of Rs. 2,35,85,967/-. Thereafter the assessee filed a revised return on 19.08.2010 showing NIL income and tax was payable as per the provisions of section 115JB of the Act on the Book Profits of Rs. 51,02,910/-. The Id. AO observed that the assessee had debited a sum of Rs. 3,01,21,223/- and, claimed the same as deduction on account of prior period expenses, were relating to payment to various employees for the months of February and March, 2009. He proceeded to disallow the said sum of Rs. 3,01,21,223/- in the assessment. The assessee submitted that certain expenses were incurred during the year for setting up a new manufacturing unit at Rudrapur, Uttaranchal for manufacturing similar types and items of goods in the same line of business. The unit/plant at Rudrapur started commercial production w.e.f. 28.02.2010 i.e. relevant to assessment year 2010-11. The Faridabad Unit was engaged in the production of control gears, control panels,

industrial plugs, socket, starters, electronic control devices and boxes. The new unit set up at Rudrapur is also engaged in the production of the same products as at Faridabad. It was submitted that there being interconnection, interlacing and interdependence of the old and new units of manufacture, the new unit did not constitute a new business but was an establishment of the existing business and accordingly, it was prayed that the expenditure incurred by the assessee for establishment of new unit may kindly be made as revenue expenditure.

3.2. Alternatively the assessee also stated that since it thought that the expenditure in the sum of Rs. 3,01,21,223/- in the months of February and March, 2009 pertained to the expanded unit of the assessee, the assessee had originally added the same to the cost of capital work-in-progress and did not claim any deduction towards the same in the original return of income. Later on while finalizing the accounts for the year ended 31st March, 2010 relevant to assessment year 2010-11, the assessee came to know that the said employee cost of Rs. 3,01,21,223/- does not pertain to expanded unit of the assessee warranting capitalization of the same in the earlier year in the books. Accordingly it sought to withdraw the said sum from the capital work-in-progress and charged in the books by debiting prior period expenses during the assessment year 2010-11. It was submitted that the assessee did not make any claim of deduction towards the same in assessment year 2010-11. The assessee however filed a revised return for assessment year 2009-10 and claimed the said sum of Rs. 3,01,21,223/- as revenue expenditure as admittedly the said sum of Rs. 3,01,21,223/- representing employee cost pertained to old business unit of the assessee for the months of February and March, 2009 falling in the assessment year 2009-10. The Id. AO did not agree to these contentions of the assessee and proceeded to disallow the sum of Rs. 3,01,21,223/- in the assessment.

3.3. The Ld. CIT(A) appreciated the contention of the assessee and granted relief to the assessee by deleting the disallowance. Aggrieved the revenue is in appeal before us on the following ground:

1. That on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing claim of preoperative expenses of Rs. 3,01,21,223/- without considering that such expenses were not related to this assessment year and, therefore, were not allowable.

3.4. We have heard the rival submissions and perused the material available on record including the paper book filed by the assessee comprising of pages 1 to 239. The Id. AR also placed reliance on the copy of computation income with the assessment year 2009-10 for the year under appeal and the assessment year 2010-11. We find that the assessee had originally capitalized the employee cost of Rs. 3,01,21,223/- to capital work-in-progress in its books and did not claim the same as deduction in the return of income filed originally for the assessment year 2009-10. Later on a revised return was filed by the assessee claiming the same as deduction in the return of income on the ground that the said sum ought not to have been capitalized originally as it pertains only to the old business unit of the assessee. Moreover, the said employee cost pertains to the months of February and March, 2009 falling in the assessment year 2009-10 i.e. the year under appeal. We have also gone through the computation of income filed by the Id. AR for the Assessment Year 2010-11 wherein a sum of Rs. 3,04,53,894/- was disallowed towards prior period expenses voluntarily by the assessee, which includes the sum of Rs. 3,01,21,223/-. Hence, we are convinced that the assessee having found that it had committed an error by wrongly capitalizing the employee cost for February and March, 2009 in the books of accounts and also not claiming deduction for the same in the original return of income, later on proceeded to file a revised return for assessment year 2009-10 and claimed the same as deduction and correspondingly debiting prior period expenses for the very same amount in assessment year 2010-11 in the books and fairly disallowing the same voluntarily in the memo of income filed

for the assessment year 2010-11. In view of these facts and findings we hold that the Ld. CIT(A) had rightly deleted the disallowance of Rs. 3,01,21,223/- for the assessment year 2009-10. Accordingly ground no. 1 raised by the Revenue is dismissed.

4. The next issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the disallowance of Rs. 1,26,01,426/- on account of leave encashment, in the facts and circumstances of the case.

4.1. The brief facts of this issue is that the assessee made provision for leave encashment for certain sum during the year under appeal and out of the same, had paid certain sums before the due date of filing the return of income. Similarly the assessee had also made provision for leave encashment in the earlier years and had also made payments during the year on account of such pre-existing liability i.e. payments made during the year on account of earlier year provisions. We find that the Id. AO and the Ld. CIT(A) had not looked into this issue in the proper perspective by linking the same with the tax audit report filed by the assessee wherein all these details are duly mentioned. Hence, we deem it fit and appropriate to remand this issue to the file of the Id. AO for de novo adjudication and decided the same in accordance with the law. Needless to mention that the assessee be given reasonable opportunity of being heard. Accordingly, ground no. 2 raised by the revenue is allowed for statistical purposes.

5. The next issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the disallowance of Rs. 52,15,220/- towards provision for warranty, in the facts and circumstances of the case.

5.1. The brief facts of this issue is that the assessee in its profit and loss account had debited a sum of Rs. 52,15,220/- on account of provision for warranty expenses. The Id. AO observed that similar debits were made by the assessee for assessment years 2007-08 and 2008-09 in the sums of Rs. 1,60,88,554/- and Rs. 3,62,820/- respectively which were held to be not allowable as deduction. The Id. AO observed that the said provision for warranty had not been made by the assessee on a scientific basis and hence, disallowed the same in this assessment year also following the action taken in assessment years 2007-08 and 2008-09. The Ld. CIT(A) went through the books of accounts and the audited financial statements wherein the break up for provision for warranty has been mentioned by the assessee by way of notes on account as under:

Opening balance as on 01.04.2008	Rs. 74,76,910/-
Add: Addition during the year	Rs. 52,15,220/-

Total	Rs 1,26,92,130/-
Less: Utilized/ reversed during the year	Rs. 82,79,110/-

Closing Balance as worked out for provision For warranty as on 31.03.2009	Rs. 44,13,020/- -----

It has also been mentioned in the audited financial statement notes on accounts vide Para 9 that “provision for warranty has been recognized based on estimate warranty claims on products sold during the last three financial years”. The Ld. CIT(A) observed that the provision has been made during the year under appeal also on scientific basis in line with what has been made by the assessee in the earlier years. The Ld. CIT(A) by following order of his predecessor in assessee’s own case for the assessment year 2007-08 and respectfully following the decision of Hon’ble Supreme Court in the case of CIT vs. Rotork Control India Ltd. reported in 314 ITR 62 (SC) held that the assessee had made provision for warranty on a scientific basis and accordingly is eligible for deduction for the same in the year of making the provision. Aggrieved the revenue is in appeal before us on the following grounds:

3. That on the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in deleting the disallowance of provisions for warranty of Rs. 52,15,220/- made by the A.O. without having regard that such provisions of warranty were not made scientifically and not allowable in view of the principle laid down by the Hon'ble Supreme Court in the case of M/s Rotork Control India Limited [314 ITR 62(SC)]

4. That on the facts and in the circumstances of the case and in law, the Ld. CIT(Appeals) erred in deleting the disallowance of provisions for warranty of Rs. 52,15,220/- made by the AO without having regard that such provisions of warranty were made to defer the liability of payments of taxes and the assessee company never had to incur such expenditure in the past.

5.2. We have heard the rival submissions. We find that this issue has already been held in favour of the assessee by the orders of this Tribunal for assessment years 2007-08 and 2008-09 in its own case vide orders dated 18.12.2015 and 18.03.2016 for assessment years 2007-08 and 2008-09 respectively wherein it was held that:

“In view of the above facts and circumstances and the precedent of Hon'ble Supreme Court, since in the present case before us the provision for such warranty is being made on the basis of past experience and has been computed in a systematic and scientific manner, as in the present case, surely we have to appreciate that these warranty expenses are towards expenses which have been incurred or are likely to be incurred within the period for which warranty has been assured to the customers against the sale of products and as such, such expenses are deductible as business expenditure. Such expenditure having been incurred wholly for the purpose of business is fully allowable as business expenditure. Accordingly, we uphold the order of Ld. CIT(A). Hence, we dismiss both the appeals of revenue”.

We find that the provision has been made during this year based on the transaction carried out in the last preceding three years on a scientific basis and this method has been consistently followed by the assessee in the past. In view of these facts and findings and respectfully following the decision of this Tribunal in the assessee's own case for the earlier years (supra), we hold that the Ld. CIT(A) had rightly deleted this disallowance and granted relief to the assessee. Accordingly ground nos. 3 & 4 raised by the revenue are dismissed.

6. The next issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the disallowance made in the sum of Rs. 18,93,809/- towards provision for non-moving inventory in the facts and circumstances of the case.

6.1. The brief facts of this issue is that the assessee company in this year made a provision of Rs 18,93,809/- towards provision for non-moving inventory and claimed the same as deduction in the return of income. The ld. AO observed that the same represents uncrystallized and unascertained liability debited to the profit and loss account and accordingly not allowable as expenses as per the provision of the Act. The assessee stated that as per its accounting policy on inventories, it has been mentioned in the notes on accounts to audited financial statements under the caption 'inventories' as under:

“Inventories are valued at lower of cost or net realizable value. The cost is arrived at a weighted average basis and after considering provision for obsolesces. Finished goods & works-in-progress includes all the applicable manufacturing overheads.”

Further in serial no. 11 of the tax audit report u/s 44AB of the Act, the tax auditor had specifically mentioned that there has been no change in or deviation from the method of accounting employed in the preceding years from the accounting standing prescribed u/s 145 of the Act. It was explained that according to the regular and consistent method applied every year since long, provision for non-moving inventory/stock is made in the books of accounts. If the closing balance of such provision for non-moving inventory as on 31st March of financial year is higher than the opening balance of such provision as on 1st April of that year, then there is a net excess of the provisions made during that year which is offered for disallowance in the return and computation of total income for that year. Conversely, if the closing balance of such provision as on 31st March of a financial year is less than the opening balance of such provision as on 1st April of that year, then there is a reduction of the provision during that year which is claimed as

deduction from the total income. This procedure is followed every year by the assessee without any change or deviation. The assessee furnished a statement containing the workings of provisions for non-moving inventories for the assessment year 2009-10 wherein there was total reduction of Rs. 73,54,027/- as under:

i) For non-moving inventory of raw materials and components	(-) Rs. 54,60,218/-
ii) For non-moving inventory of finished goods	(-) Rs.12,22,750/-
iii) For non-moving inventory of store and spares	(-) Rs. 6,21,059/-
Total	(-) Rs. 73,54,027/-

(Rs. 54,93,670/- as on 31.03.2009 less Rs. 1,28,47,697/- as on 01.04.2008).

The sum of Rs. 54,60,218/- being the amount of reduction in the provision for non-moving inventory of raw materials and components which is meant for use in manufacturing, was reduced from the manufacturing and operating expenses as per Schedule 10 of the audited accounts owing to the same and identical procedure followed from year to year and consequently the income enhanced by that amount of Rs. 54,60,218/-. But the said sum of Rs. 54,60,218/- being a negative figure of the provision, is ultimately deductible from the total income.

6.2. It was further stated that in the return and computation of total income for the assessment year 2008-09, the total excess provision of Rs. 39,75,753/- being a positive figure, was added back and offered for taxation as the closing balance of such provision as on 31.03.2008 was higher than the opening balance of such provision as on 01.04.2007. Conversely in assessment year 2009-10 the entire amount of reduction in the provision of Rs. 73,54,027/-, being a negative figure, was claimed by the assessee as deduction in its return for assessment year 2009-10.

6.3. It was further pointed out that the Id. AO did not spot even after making the said disallowance of Rs. 73,54,027/-. He further disallowed the sum of Rs. 18,93,809/-

(1222750 towards finished goods and Rs. 621059 towards store and spare parts) on account of the said provision for non-moving inventory on the ground that the same were uncrystallised and unascertained liability. It was pointed out before the Ld. CIT(A), that by this arbitrary action of the ld. AO, he had actually enhanced the income by a sum of Rs. 92,47,836/- (Rs. 7354027 + Rs. 1893809) without even caring to consider the fact that the sum of Rs. 18,93,809/- is already included in the figure of Rs. 73,54,027/-.

6.4 The Ld. CIT(A) appreciated the aforesaid contention of the assessee and deleted the disallowance and granted relief to the assessee. Aggrieved the revenue is in appeal before us on the following ground:

5. That on the facts and in the circumstances of the case and in law, the CIT(Appeals) erred in giving relief to the assessee company by deleting the disallowance made on account of provision for non-moving inventory without considering that such provisions were uncrystallised and unascertained liability and, therefore, not allowable.

6.5. We have heard the rival submissions. We find that the Ld. CIT(A) had deleted the disallowance by observing as under:

“I have carefully considered the submission put forth on behalf of the appellant along with the supporting details/documents, perused the facts of the case including the observation of the AO and other materials brought on record in respect of the disallowance of Rs. 18,93,809/- & Rs. 1,21,43,683/- relating to non-moving inventory. In respect of Rs. 18,93,809/-, it is seen that the disallowance has been made by the AO by treating the said amount as contingent in nature, whereas Rs. 1,21,43,683/- has been contended by the appellant as having been credited to the P&L a/c. and therefore, the appellant has contended that the said amount having been considered in the P&L a/c. should have been reduced in the computation of income which the AO did not consider. The AO in his assessment order has merely mentioned that the said sum of Rs. 18,93,809/- is not allowable as per the provisions of the Act and hence the disallowance and in respect of Rs. 1,21,43,683/- nothing has been mentioned by the AO. The appellant in his written submission has contended that the said sum of Rs. 18,93,809/- has already been considered in the computation of income and has already been disallowed by the appellant itself in the computation and hence it has been contended by the appellant that the AO has wrongly made such addition. In such

respect, the appellant has submitted the working of the provision / reversal which is as follows:

- (i) (-) Rs. 54,60,218 – Provision for !Ion-moving inventory (raw material and component)
 - (ii) (-) Rs. 12,72,750 - Provision for non-moving inventory (finished goods)
 - (iii) (-) Rs. 6,21,059/- Provision for non-moving inventory (store and spare parts)
- Total (-) Rs. 73,54,027/-**

The appellant has contended that the AO has added a sum of Rs. 12,72,750/- & Rs. 6,21,059/- aggregating to Rs. 18,93,809/- without appreciating the fact that the said sums are actually reversal on account of non-moving inventory and actually it is a reduction only. Further, the appellant has also submitted a working of the provision which stands at Rs. 39,75,753/- which has already been added back in the computation of income .

In the background of these facts, I find that the AO has made such disallowance without appreciating the, facts in the matter and hence the addition so made in such respect is hereby deleted.

As regards the sum of Rs.1,21,43,683/-, the provision for non-moving inventory as on 01.04.2008 was at Rs. 1,28,47,697/- and the closing balance was Rs. 54,93,670/- and hence the sum of Rs. 73,54,027/- was credited in the P&L a/c. and for which the claim has been correctly made by the appellant in the computation of income, in view of the discussion so made earlier. Hence, this ground of the appellant is also allowed.

In view of the aforesaid facts and consistent treatment given by the assessee from year to year with regard to treatment of provision for non-moving inventory in the return of income, we hold that the Ld. CIT(A) had rightly deleted the disallowance made in this regard by the ld. AO . Accordingly, ground no. 5 raised by the revenue is dismissed.

7. The next issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in deleting the addition of Rs. 1,05,38,200/- on account of valuation of closing stock in the facts and circumstances of the case.

7.1. Brief facts of this issue is that from the details of quantitative particulars and value of trading goods as per the Tax Audit Report, it was observed that the Opening Trading Stock of Wires, Cables. and Drivers of quantity of 43530 numbers were valued at Rs.3,63,81,376 which was at Rs. 835.78 per unit. The purchase price of such items of

213147 numbers were Rs. 32,62,47,4023 which was at Rs. 1530,63 per unit. Against these, the Closing Stock of 52691 units were valued at Rs.3,37,11,358 which was @ Rs. 639.80 per unit. In course of assessment proceedings, this observation was pointed out to the A.R. of the assessee company and he was asked to furnish the basis or justification for valuation of Closing Stock @Rs.639.80 per unit which was lower than the opening value of Rs.835.78 per unit and much less than the purchase price Rs. 1530 per unit. The assessee was asked to explain why in the absence of any explanation or basis for justification of such valuation of closing stock should not be rejected and a proper valuation on the basis of materials available should not be made. The assessee company did not furnish any basis or justification for valuation of closing stock of wires, cables, drives etc. of Rs. 639.80 per unit as against value of Rs. 835.78 per unit of the opening stock and much less than the purchase price of Rs. 1530.62 of this trading items during the year. Accordingly, the ld. AO adopted average price of all the low and high value items and valued the closing stock at Rs. 839.80 per unit and accordingly made an addition of Rs. 1,05,38,200/- in the assessment.

7.2. The assessee stated that the total closing stock comprised both low value as well as high value items. The entire details of trading stock of wires, cables and drives were indeed furnished before the ld. AO clearly specifying description of materials, product hierarchy, material code number, quantity, unit of measurement, price per unit and value thereon running into several pages which were completely ignored by the ld. AO. The Ld. CIT(A) called for a remand report from the ld. AO wherein the ld. AO had categorically mentioned that no additional evidences/fresh evidences were indeed filed by the assessee and accordingly he has got nothing to comment over and above that has already been stated in the assessment order. The Ld. CIT(A) based on this remand report observed that the assessee had indeed given detailed workings for the valuation of trading stock of wires, cables and drives before the ld. AO. He also observed that the entire books of accounts were produced before the ld. AO by the assessee which has not

been rejected by the Id. AO in terms of section 145 of the act and accordingly there cannot be any doubt that could be raised about the correctness of the books of accounts furnished thereon. Accordingly, he held that the method of valuation done by the assessee cannot be faulted with and deleted the addition made towards closing stock at Rs. 1,05,38,200/- in the assessment. Aggrieved the revenue is in appeal before us on the following ground:

6. That, on the facts and in the circumstances of the case and in law, the CIT(Appeals) has erred in deleting the addition of Rs. 1,05,38,200/- on account of valuation of closing stock holding that no material was available with the AO; whereas the addition on account of valuation of closing stock was made on the basis of material on record after affording adequate opportunity to the assessee company.

7.3. We have heard the rival submissions. We find that the assessee has given detailed workings for closing stock of trading items of wires, cables and drives which are enclosed from pages 174 to 211 of the paper book filed before us. We find that the same details were filed before the Id. AO as well as the Ld. CIT(A). We also find from the remand report of the Id. AO dated 07.02.2013 which is enclosed in page 223 of the paper book that the assessee has not furnished any new evidences or additional evidences before the Ld. CIT(A). This categorical finding of the Id. AO in his remand report goes to prove that this working for closing stock of trading items was very much available in the file of the Id. AO in the assessment proceedings itself, which has been ignored by him. We find from the said workings that there are innumerable number of items comprising both low and high value items. Hence, the action of the Id. AO in averaging all the items put together cannot be accepted. The assessee also indeed filed complete details with regard to material code, product description, quantity, unit of measurement, corresponding price and value thereon in the said workings. In view of these facts and findings of the Ld. CIT(A) that the books of accounts of the assessee had not been rejected by the Id. AO, and in view of the fact that this method of valuation has been consistently employed by the assessee from year to year, there is no case to make

any addition towards closing stock in the facts of the instant case. We hold that the Ld. CIT(A) had rightly deleted this addition appreciating this fact and contentions of the assessee. Accordingly the ground no. 6 raised by the revenue is dismissed.

8. The last issue to be decided in this appeal is as to whether the Ld. CIT(A) was justified in giving relief to the assessee company by holding that the amount of provision of written back of Rs. 20,02,667/- was allowable as deduction, in the facts and circumstances of the case.

8.1. Brief facts of this issue is that the assessee had credited the sum of Rs. 20,02,667/- as excess provision written back in Schedule 9 (other income) and credited to profit and loss account. According to the assessee, the said provision written back relates to sales incentive payable to employees looking after the sales of the products of the assessee company which were written back as no longer payable. The assessee had made a provision of Rs. 40 lacs in assessment year 2007-08 towards sales incentive payable to its employees in assessment year 2007-08 and had disallowed the same voluntarily in the return of income. Out of this sum of Rs. 40 lacs, a sum of Rs. 20,02,667/- was treated as no longer payable and accordingly, the assessee wrote back the same by crediting to its profit and loss account. Since, the assessee had disallowed the provision in assessment year 2007-08 i.e. in the year of making provision, the write back of the same, would have to be allowed as deduction in the computation of income, to avoid double taxation. Accordingly, the assessee claimed the sum of Rs. 20,02,667/- being the excess provision written back to its profit and loss account, as a deduction in computation. The Id. AO did not appreciate this contention of the assessee and disallowed Rs. 20,02,667/- in the assessment, which was deleted by the Ld. CIT(A) . Aggrieved the revenue is in appeal before us on the following ground:

7. That, on the facts and in the circumstances of the case and in law, the CIT(Appeals) has erred in giving relief to the assessee company by holding that the amount of provision written back of Rs. 20,02,067/- was allowable without

considering the nature of provision created and giving a finding as to the allowability of such provision without verification facts thereof.

8.2. We have heard the rival submission. We find from the computation of income for the assessment year 2007-08 the assessee had voluntarily disallowed the provision for sales incentives payable to its employees amounting to Rs. 40 lacs. during the assessment year 2007-08. There is no dispute that out of such sum of Rs. 40 lacs, a sum of Rs. 20,02,667/- representing the provision for sales incentives is no longer required to be paid. Accordingly, the assessee credited the same in its profit and loss account by reflecting as 'excess provision written back' and claimed the same as deduction in the return of income for the assessment year 2009-10. We are convinced that if the action of the Id. AO is to be sustained , then this sum of Rs. 20,02,667/- would get invited with double addition. Hence, in the interest of justice, it has to be rightly allowed as deduction in the year of write back, which has been rightly done by the Ld. CIT(A). Accordingly, ground no. 7 raised by the revenue is dismissed.

9. Ground no. 8 raised by the revenue is general in nature and does not require any specific adjudication.

10. In the result, the appeal of the revenue is partly allowed for statistical purposes and cross objection of assessee is dismissed as not pressed.

Order pronounced in the Court on 09.03.2018

Sd/-

[S.S. Viswanethra Ravi]
Judicial Member

Sd/-

[M.Balaganesh]
Accountant Member

Dated : 09.03.2018
SB, Sr. PS

Copy of the order forwarded to:

1. DCIT, Circle -7, Kolkata, P-7, Chowringhee Square, 5th Floor, Room No. 15, Kolkata-700069.
2. M/s BCH Electric Limited(formerly M/s Bhartia Industries Limited.,) Block-1E, 1st Floor, 216, A.J.C. Bose Road, Kolkata-700017.
- 3..C.I.T.- 4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True copy

By Order

Senior Private Secretary
Head of Office/D.D.O., ITAT, Kolkata Benches