

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C”BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.105/Bang/2020
Assessment Year: 2016-17

M/s. BPL Medical Technologies Pvt. Ltd. 11 <sup>th</sup> KM, Arakere, Bannerghata Road Bangalore  <b>PAN NO :AAF3158E</b>	<b>Vs.</b>	Deputy Commissioner of Income-tax Circle-1(1)(2) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Ms. Manasa Ananthan, A.R.
<b>Respondent by</b>	:	Smt. R Premi, D.R.

Date of Hearing	:	20.07.2021
Date of Pronouncement	:	20.07.2021

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 30.10.2019 passed by Ld. CIT(A)-1, Bangalore and it relates to the assessment year 2016-17. The only issue urged relates to the disallowance of “Warranty provision” made by the AO, which was partially sustained by Ld CIT(A).

2. We heard the parties and perused the record. The assessee herein is a leading exporter of medical equipment. It filed return of income for the year under consideration declaring loss of Rs.10.45

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crores. During the course of assessment proceedings, the A.O. noticed that the assessee has claimed deduction of warranty provision to the extent of Rs.89,27,387/-. The A.O. took the view that the assessee has created the provision without any scientific basis and accordingly took the view that the provision for warranty is a contingent liability. Accordingly, he disallowed the above said claim.

3. The Ld. CIT(A) considered the decision rendered by Hon'ble Supreme Court in the case of Rotork Controls India Pvt. Ltd. (2009) 180 Taxman 422. The Ld. CIT(A) also examined the past history of utilization of "provision for warranty" created by the assessee. Accordingly he took the view that the assessee has created the provision in excess during the year and held that provision created by the assessee may be restricted to 50%. Accordingly he directed the AO to allow deduction of 50% of the provision created during the year and disallow the remaining amount. While giving said direction, the Ld. CIT(A) took the amount of Warranty provision created during the year at Rs.2,18,45,588/- and accordingly, directed the A.O to allow 50% thereof as deduction and disallow the balance amount.

4. It is the submission of the assessee that the amount actually debited to profit & loss account was Rs.89,27,387/- only, which was worked out as under in the books:-

Warranty provision worked out - Rs.2,18,45,588/-

Less:- Utilised amount - Rs.1,29,18,201/-

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Net amount debited to P & L a/c - Rs. 89,27,387

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Accordingly, he submitted that the net amount of provision debited to profit & loss account was Rs.89,27,387/- only and the same was disallowed by the AO. Accordingly, the Ld. A.R. submitted that the Ld. CIT(A) was not correct in adopting the figure of Rs.2,18,45,588/- for the purpose of computing disallowance. Accordingly, the Ld. A.R. submitted that the disallowance as directed by Ld CIT(A) should be made on Rs.89,27,387/- only.

5. We heard Ld. D.R. and perused the record. As rightly pointed out by Ld. A.R., the amount of warranty provision claimed in profit & loss account was Rs.89,27,387/-. We have also observed earlier that the amount disallowed by the AO was also Rs.89,27,387/- only. We notice that the Ld CIT(A) has directed as under:-

*“Accordingly, an amount of Rs.1,09,22,794/- (being 50% of provision created of Rs.2,18,45,588/-) is allowed to be reasonable and the balance provision created is disallowed being excess.”*

The direction given by the Ld CIT(A) results in disallowance of Rs.1,09,22,794/ , while the actual amount of warranty provision claimed by the assessee was only Rs.89,27,387/-.

6. Before us, the Ld A.R submitted that the disallowance of 50% should be worked out on the amount of Rs.89,27,387/-. Adopting the reasoning given by Ld CIT(A), we find merit in the submission of Ld A.R. Accordingly, we modify the order passed by Ld CIT(A) and direct the AO to restrict the disallowance to 50% of Rs.89,27,387/-. We order accordingly.

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7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 20<sup>th</sup> Jul, 2021.

**Sd/-**  
**(N.V. Vasudevan)**  
**Vice President**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 20<sup>th</sup> Jul, 2021.  
VG/SPS

**Copy to:**

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.