IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

TAX APPEAL NO. 31 OF 2007

The Commissioner of Income Tax,
Aurangabad .. Appellant

Versus

Ram Pandharinath Chidrawar .. Respondent

Shri Alok Sharma, Standing Counsel for the Appellant.

CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.
DATE : 01ST APRIL, 2015.

PER COURT :

. Mr. Sharma, the learned counsel for the appellant states that, though the goods of the respondent were seized on 31.03.1997, still the respondent is not entitled to show a loss of Rs. 39,51,369/- on account of seizure of goods, the Assessing Officer ought to have considered the said aspect. The goods were seized, as such the appellant did not loose ownership over the said goods. The assessing officer has also considered in subsequent order that the respondent had received sale proceeds of the said goods auctioned. According to the learned counsel, the Commissioner Appeals and the Tribunal have not considered this aspect in its correct perspective.

2. We have considered the submissions canvassed by the learned counsel for the appellant. The goods were not only seized, but were also confiscated. The Tribunal has considered the said aspect in para

8 and 9 of its order, which reads as under :

> "8. The stock valued at Rs. 36,48,800 was seized and then confiscated during the previous year relevant to A.Y. 1997-98. The expression 'confiscation' means appropriation to public treasury by way of penalty or seizure as if by authority (see The Concise Oxford English Dictionary (Tenth Edition Revised page No. 299). In other words the assessee seizes to have any rights whatsoever over the stock which is confiscated by the authorities.
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> 9. The 'closing stock' appearing in the trading account represents the value of the stock which is physically present as at the end of the accounting year. The stock which was seized and confiscated during the year was not physically present with the assessee as at the end of the year and therefore the value of the confiscated stock can not form part of the 'closing stock' appearing in the trading account. Therefore, we see no reason to interfere with the conclusion reached by the CIT(A). His order is accordingly upheld."

3. Considering the aforesaid aspects of the matter, as the goods were seized and confiscated by the State, the Commissioner Appeals and the Tribunal have not committed any error in passing the impugned order. Appeal as such is dismissed. No costs.

[A. I. S. CHEEMA, J.] **[S. V. GANGAPURWALA, J.]**

bsb/April 15