**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO. 394 OF 2013**

The Commissioner of Income Tax-6 ..Appellant

Vs.

M/s Hindustan Polyamides and Fibres Ltd. ..Respondent

....

Mr. Suresh Kumar, Advocate for Appellant.
Ms. A. Vissanji a/w Mr. S.J. Mehta, Advocates for Respondent.

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**CORAM : M.S. SANKLECHA &**
**G.S. KULKARNI, JJ.**
**DATED : 18 FEBRUARY 2015**

**P.C.:**

1. This appeal by the revenue under Section 260-A of the Income Tax Act, 1961 (the 'Act') challenges the order dated 22 August 2012 passed by the Income Tax Appellate Tribunal (the 'Tribunal') relating to the block period 1 April 1987 to 23 October 1997.

2. The appellant/revenue has raised the following question of law for our consideration:

> *"(a) Whether on the facts and in the circumstances fo the case and in law the ITAT is right in deleting the addition made at Rs.61,89,292/- on account of stock of finished goods, work-in-progress and raw material on the ground that the same does not come under the purview of*

*Chapter XIV B of the Income Tax Act, 1961 without appreciating the facts that there were excess stock found, as inventorised during search vis-a-vis stock as per the registers and therefore, the order of the ITAT is perverse?*
*(b) Whether on the facts and in the circumstances of the case and in law the ITAT is right in deleting the addition made at Rs.61,89,292/- on account of stock of finished goods, work-in-progress and raw material stating that the difference was only on account of valuation of stock at various stages in the line of production and that no excess stock was found at the time of search whereas, in fact, excess stock of finished goods, excess stock of raw material and excess stock of goods-in-progress were found and inventorised and there stock were not reflected in the books of accounts maintained by the assessee?"*

3. On 23 October 1997 there was a search operation under Section 132(1) of the Act upon the respondent-assessee. Consequent to the search, an assessment order was passed on 29 October 1999 interalia holding that the quantity of closing stock of raw material, work in progress and finished products to the extent of Rs.62.07 Lakhs were not correctly reflected and form a part of an undisclosed income subjected to tax under Chapter XIV-B of the Act.

4. In appeal, the Commissioner of Income Tax (Appeals) (the 'CIT(A)') by an order dated 13 February 2002 upheld the order of assessment dated 29 October 1999. On further appeal, the Tribunal on

analysis of facts as available on record deleted the additions on account of stock of finished goods and work in process and raw material aggregating to Rs.61.89 Lakhs. Moreover, with regard to valuation difference in stock as on 31 March 2007 for an amount of Rs. 6.55 Lakhs is also deleted. However, revenue is not in appeal in respect of deletion on account of valuation of stock as on 31 March 2007.

5. We find that the impugned order of the Tribunal is a well reasoned order considering the fact as pointed out by the respondent-assessee during the assessment proceedings itself. So far as demand based on undisclosed income aggregating to Rs.61.35 Lakhs relating to stock of finished products and work in progress is concerned, the respondent-assessee had during the course of the search itself explained that the stock register of finished products is kept for central excise purpose the discrepancy in the quantity in the register and on taking of inventory arose as goods were not 100% pure and would require further processing. Similarly, though finished products which according to the assessee are ready for export are recorded for the purpose of management information system, the same are not recorded in central excise register as it may require further processing in case the sample sent for approval did not meet the necessary standards. The discrepancy

was thus explained. The Tribunal also records the fact that the finished products were exported within three weeks of the search and details of the same duly accounted in the assessee's regular books of accounts. Moreover, the impugned order records that the aforesaid record of export as submitted by the respondent-assessee has not been disputed by the revenue. Further the order also records no other incriminating material of any sales outside the books and/or purchase were noticed. In view of the above factual determination, the entire amount of Rs.61.35 Lakhs sought to be added as undisclosed income was deleted. So far as the stock of raw material is concerned, the impugned order records the fact that after examining the documents placed on record it was satisfied that the stock of imported catalyst was duly accounted to the extent of 50.9 Kg. (Rs.25,450/-) and stock of HCO of 1120 Kg. (Rs.28,000/-). However, the impugned order did not dispute the addition of 730 Kgs. of HCO by the Assessing Officer and confirmed by the CIT(A). This not challenged by the assessee.

6. In view of the above factual findings rendered by the Tribunal on the basis of record after detailed analysis which was available before the Assessing Officer the conclusion reached by the Tribunal cannot be found fault as it is a possible view on the basis of the facts on record.

The revenue is unable to show the findings in the impugned order are perverse and/or arbitrary.

7. Accordingly, no substantial question of law arises for our consideration.

8. Thus appeal dismissed. No order as to costs.

**[G.S. KULKARNI, J]** **[M.S. SANKLECHA, J.]**