IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No. 66 of 1994
Date of Decision:-08.01.2015

M/s Roadmaster Industries of India Ltd. Rajpura

...Petitioner

Versus

The Commissioner of Income-tax, Patiala

...Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- None for the Petitioner
Ms. Savita Saxena, Advocate
for the Respondent

HEMANT GUPTA J.(Oral)

The present reference under Section 256(1) of the Income Tax Act 1961 arises out of an order passed by the Income Tax Appellate Tribunal (for short 'the Tribunal') on February 26, 1993, whereby the revenue was permitted to raise additional grounds in support of its appeal before the Tribunal. In the statement of case, learned Tribunal framed the following two substantial questions of law :-

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that grounds Nos.3 and 4 raised by the appellant in the memorandum of appeal were wide enough to permit two additional grounds to be raised in as

much as the additional grounds were held to be clarificatory in nature and by way of amplification of the existing grounds.

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in allowing two additional grounds to be raised by the appellant without adequately explaining the delay in raising those grounds."

We have gone through the record and find that no substantial question of law arises for consideration. The revenue in appeal before the Tribunal has challenged the order passed by the Commissioner of Income-Tax (Appeals) on the following four grounds :-

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.1280/- made by the Assessing authority by disallowing fees and taxes.

2. The Ld. CIT (A) has also erred in allowing depreciation on tubewells @ 10% instead of 5% allowed by the assessing officer.

3. It is prayed that the order of the Ld. CIT (A) be set aside and that of the Assessing Authority restored.

4. The appellant craves leave to add or amend the grounds of appeal before it is heard and disposed of."

Subsequently, the Revenue filed the following additional two grounds on 20.11.1990 :-

> "1. That on the facts and in the circumstances of the case, the Ld. CIT (A) has erred in allowing weighter deduction under Section 35-B on the expenses incurred on sea freight Rs.12,65,266/-, freight and other charges from Rajpura to port Rs.6,89,879/- and insurance charges Rs.1,46,109/-.
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> 2. That on the facts and in the circumstances of the case the Ld.CIT (A) has erred in allowing weighted deduction under Section 35-B on bank interest Rs.58,319/- and forwarding charges to bank Rs.15,445/-."

After considering the arguments raised by the counsel for the Revenue and for the assessee, the Tribunal found that grounds Nos.3 and 4 raised by the Revenue are wide enough to permit the Revenue to raise the grounds regarding weighted deduction. Such ground was found to be clarificatory in nature and by way of amplification in ground Nos.3 and 4 in the original grounds of appeal. Thus, the appeal was admitted for hearing on the additional grounds as well.

After examining the record, we find that the additional grounds raised by the Revenue were rightly taken into consideration as part of the grounds already raised by the Revenue. Consequently, the questions of law framed by the Tribunal are answered in affirmative holding that the Tribunal was rightly held in ground Nos.3 and 4 are wide enough to include additional grounds, which are clarificatory in nature.

As per the office report, the record of ITC No.79 of 1994 has been burnt arising out of the same order of the Tribunal. Therefore, the said case also merits no consideration.

Disposed of.

(HEMANT GUPTA)
JUDGE

January 08, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE