IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.148 of 2013 (O&M)
Date of decision:- 19.03.2015

M/s Shyam Sunder (Haryana) Industries Pvt. Ltd. Hisar

...Appellant

Versus

CIT Rohtak and another

...Respondents

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ITA No.149 of 2013 (O&M)

M/s Shyam Sunder (Haryana) Industries Pvt. Ltd. Hisar

...Appellant

Versus

CIT Rohtak and another

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Akshay Bhan, Sr.Advocate with
Mr. Alok Mittal, Advocate for the appellant.

S.J. VAZIFDAR, A.C.J. (ORAL)

CM No.13331-CII of 2013

CM is allowed.

For the reasons mentioned in the application, delay of 27 days in refiling the appeal is condoned.

ITA No.148 of 2013

1. These appeals are filed against the order of the Income Tax Appellate Tribunal modifying the orders of the Commissioner of Income

Tax (Appeals) (for short `CIT' (Appeals). The appeals arise out of the common order of the Tribunal and are disposed of by this common order and judgment. The appeals pertain to the assessment years 1999-2000 and 2000-01 respectively.

2. The appellant contends that the following substantial questions of law arise for determination of this Court:

> (i) Whether in facts and circumstances of the case, the principle of natural justice has been violated and the impugned orders are therefore legally unsustainable in the eyes of law?
>
> (ii) Whether in fact and circumstances of the case, the action of the ld. Authorities below in assuming the figure of 20% despite coming to the conclusion that there have been sales returns is legally unsustainable in the eyes of law?
>
> (iii) Whether in the facts and circumstances of the present case, the ld. Authorities exceeded their jurisdiction in rejecting the copy of the books of accounts produced by the appellant which were seized by the central excise department?
>
> (iv) Whether in the facts and circumstances of the present case, the ld. Tribunal erred in coming to the conclusion that there have been undisclosed purchases, without there being any proof for the same?
>
> (v) Whether in facts and circumstances of the case, the impugned orders Annexure A-1 to A-3 are legally sustainable in the eyes of law in view of the fact the impugned orders have been passed in violation of the mandate prescribed under section 158B of the Act.

3. After having gone through the order of the CIT (Appeals) and order of the Tribunal, we find it necessary to permit the appellant to raise the following further question of law:

> "Whether the orders of the Tribunal are liable to be set aside on the ground that they contain no reasons whatsoever."

4. The appeal is admitted on this additional question of law.

As we have admitted the appeal on this ground, it is not necessary at this stage to consider the other grounds raised in the appeal.

5. The Assessing Officer added an amount of ₹12,50,000/- to the appellant's income in respect of *Uchanti* sales and an amount of ₹19 lacs on account of stock of *Vanaspati Ghee* returned to the appellant as Suppressed Sales.

6. The CIT (Appeals) after dealing with the issues in considerable detail deleted the additional amount of ₹12,50,000/- in respect of *Uchanti* sales and estimated the stock of returned *Vanaspati Ghee* at 20% of the total amount allegedly returned. In this regard, the CIT (Appeals) for instance took into consideration the figures of the previous years.

7. The Tribunal, however, reduced this to 5% but without furnishing any reasons for the same. Similarly, the Tribunal has set aside the order of the CIT(Appeals) deleting the amount of ₹12.5 lacs as undisclosed investment by merely stating that in its view the addition by the Assessing Officer was reasonable.

7. In these circumstances, the order of the Tribunal is set aside. The matter is remanded to the Tribunal for fresh decision. Needless to say that the Tribunal will consider the material on record.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

19.03.2015
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