**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

ITA-315-2014 (O&M)
Date of decision:- 24.03.2015

The Jagraon Rice Mills, Jagraon (Punjab) through its partner Sh. Sanjeev Kumar.

...Appellant

Versus

Commissioner of Income Tax, Ludhiana

...Respondent

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

Present: Mr. Pankaj Jain, Senior Advocate,
with Mr. Divya Suri, Advocate,
Mr. Sachin Bhardwaj, Advocate,
and Mr. Deepanshu Jain, Advocate,
for the appellant.

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

CM-21267-CII-2014 (for exemption)

The application is allowed subject to all just exceptions.

CM-21268-CII-2014 (for condonation of delay in re-filing)

This is an application for condoning 23 days' delay in re-filing the appeal.

For the reasons mentioned in the application, the delay of 23 days in re-filing the appeal is condoned.

ITA-315-2014

This is an appeal against the order of the Income Tax Appellate Tribunal dated 24.11.2011 allowing the appeal against the order of the CIT (Appeals). The CIT (Appeals) set aside the addition made by the A.O. of ₹ 26 lacs on account of unexplained investment in unaccounted purchases and unexplained cash credits introduced to make investment in unaccounted purchases.

2. The appeal raises no question of law leave alone a substantial question of law. Admittedly, there were serious discrepancies between the statement filed before the tax authorities and the statement filed before the appellant's bank. The appellant had filed a return of income of ₹ 1,10,780/-. Upon investigation, the authorities came across the statements filed by the appellant with its bank. The statements showed purchases to the extent of ₹ 26 lacs, sales to the extent of ₹ 11 lacs and a closing stock of ₹ 15 lacs. Audited statements of account were also filed with the bank. The same were certified by the Chartered Accountant and by the appellant's partner. These statements were at variance from those furnished to the authorities. The appellant admits the same. The appellant's case is that they deliberately filed a statement before the bank with incorrect particulars in order to avail larger financial facilities. We will proceed on the basis that mere discrepancies in the figures is not a ground for making the addition. The Tribunal, however, has dealt with the facts in considerable detail and on the basis of the evidence available come to the conclusion that the assessment order adding the amount was correct. It is not possible to hold that the view taken by the Tribunal is perverse or unsustainable. It is to say the least a possible view. Some of the factors considered by the Tribunal are these. There were differences not only in the valuation of the closing stock, but in the purchase account and the sales account as also the balances due from the parties. Apart from what is stated earlier, the balances of two creditors were on the higher side to the tune of ₹ 10 lacs in the balance sheet. The appellant admitted that the figures furnished to the bank were manipulated. The appellant admittedly obtained two sets of accounts which were at a variance. Both the statements of account were audited and signed by the same auditors on the same day. The two sets of accounts were signed by the same partners.

No additions were made under Section 68 of the Income Tax Act, 1961 on account of the credits of ₹ 10 lacs. The CIT (Appeals) held that there was no material to show that the appellant made purchases of ₹ 26 lacs outside the books of accounts. In view of these facts, the Tribunal took a different view. The Tribunal also noted that there were also other variances in the two statements of account. It was for the appellant to establish which of the statements were correct. The appellant failed to discharge the onus.

3. In these circumstances, we find that no question of law arises in the present case. It is a question of appreciation of evidence.

4. The appeal is, therefore, dismissed.

**(S.J. VAZIFDAR)**
**ACTING CHIEF JUSTICE**

**(G.S. SANDHAWALIA)**
**JUDGE**

**24.03.2015**
**Amodh**