

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

INCOME TAX APPEAL NO. 2427 OF 2013

Commissioner of Income Tax-23

.. Appellant

v/s.

Harish K. Alimchandani

..Respondent

Mr. Arvind Pinto for the appellant

Ms. Asifa Khan for the respondent

**CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.**

DATED : 20th JUNE, 2016.

PC.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) impugns the order dated 19th July, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2005-06.

2. In this appeal, the Revenue only presses the following question of law for our consideration :-

“(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that the Assessing Officer was not justified in rejecting the books of accounts?”

3. The respondent assessee is in the business of manufacture of cranes. In his return of income, the respondent assessee declared income of Rs.74.46 lakhs. During the assessment proceedings the Assessing Officer found discrepancy in the valuation of closing stock and fall in the gross profit ratio from 10% to 7.83%. This led to Assessing Officer rejecting the books of accounts under Section 145(3) of the Act. This led to an addition on account of valuation of work in progress at Rs.1 crore and further estimating profit at gross profit ratio of 10%.

4. In appeal, the Commissioner of Income Tax (Appeal) [CIT(A)] upheld the order of the Assessing Officer to the extent of rejection of books of accounts and estimating the gross profit ratio at 10%. However, the addition of Rs.1 crore on account of valuation of closing stock-work in progress was rejected.

5. Being aggrieved, the respondent assessee carried the issue in appeal to the Tribunal. The impugned order of the Tribunal in respect of rejection of books of accounts records a finding that the Assessing Officer has not produced any evidence to show any defects in maintaining the books of accounts on the part of the Assessee. In fact,

it renders a finding that each and every detail has been kept by the assessee. Quantitative details of the opening as well as the closing stock are also maintained. It observes that the Assessing Officer and the CIT(A) have nowhere indicated any defect with regard to the purchase account, sales account and / or maintaining of the vouchers.

6. So far the the discrepancy in the valuation of gross profit ratio is concerned, the impugned order of the Tribunal points out that the turnover has increased by more than 100% as compared to that of the preceding year. The turnover of the respondent in the preceding year i.e. for A.Y. 2004-05 was Rs. 12.20 crores while in the subject assessment year i.e. for A.Y. 2005-06 was Rs. 27.07 crores and fall in the gross profit was attributable to increased competition resulting in prices of its final product be stagnant coupled with increase in cost of purchases.

7. The grievance of the Revenue before us is that the impugned order ought to have upheld the rejection of respondent assessee's books of accounts done by the Assessing Officer under Section 145(3) of the Act and confirmed by the CIT(A). In support, Mr. Pinto, the learned Counsel for the Revenue states that during the assessment proceedings,

a discrepancy in valuation of the Closing Stock work-in-progress and the decline in the gross profit ratio in the subject assessment year as compared to the preceding assessment year was noticed by the Assessing Officer. The above two factors, according to the Revenue has correctly led the Assessing Officer to reject the books of accounts maintained by the Respondent Assessee under Section 145(3) of the Act.

8. The submission of Mr. Pinto is that the rejection of books of accounts under Section 145(3) of the Act by the Assessing Officer was justified as there was discrepancy in valuation of closing stock of work in progress is not sustainable. This for the reason that the CIT(A) had in his order deleted the addition made on the above account and the Revenue has accepted it. This is evident from the fact that no appeal from it has been preferred by the Revenue to the CIT(A). So far as the other basis viz. fall in gross profit ratio is concerned, we find that the same is found by the Tribunal attributable to increase in turnover by more than 100% with prices of its products remaining stagnant due to increase in competition and no fall in prices of inputs/raw materials. Further, the finding of the Tribunal as recorded herein above in respect of the respondent assessee's accounts shows that it found as a fact that

the accounts were correct and complete. In fact, even quantitative details were also mentioned. As the finding of the Tribunal in the impugned order is shown to be perverse or arbitrary, it does not call for any interference.

9. Accordingly, the question as proposed, does not give rise to any substantial question of law.

Therefore, the appeal is dismissed. No order as to costs.

(A.K. MENON, J.)

(M.S. SANKLECHA, J.)