IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

359 **ITR No. 224 of 1995**
Date of Decision : 24.07.2019

M/s Kishan Chand & Co. Oil Inds. Ltd.

... Appellant

Versus

The Commissioner of Income Tax (Central), Ludhiana.

...Respondent

(2) **ITR No. 225 of 1995**

M/s Kishan Chand & Co. Oil Inds. Ltd.

... Appellant

Versus

The Commissioner of Income Tax (Central), Ludhiana.

...Respondent

(3) **ITR No. 226 of 1995**

The Commissioner of Income Tax (Central), Ludhiana.

... Appellant

Versus

M/s Kishan Chand & Co. Oil Inds. Ltd.

..Respondent

(4) **ITR No. 227 of 1995**

The Commissioner of Income Tax (Central), Ludhiana

... Appellant

Versus

M/s Kishan Chand & Co. Oil Inds. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Alok Mittal, Advocate for the appellant
in ITR No. 224 and 225 of 1995 and
for the respondents in ITR No. 226 and 227 of 1995.

Mr. Rajesh Katoch, Senior Standing counsel with
Ms. Pridhi Jaswinder Sandhu, Junior Standing Counsel
for the Income Tax Department in ITR No. 224 and 225 of 1995
and for the appellants in ITR No. 226 and 227 of 1995.

AJAY TEWARI, J (ORAL)

ITR No. 226 of 1995

Learned counsel for the revenue has very fairly stated that no question of law arises in the present reference and the same be dismissed as infructuous.

2. Ordered accordingly.

3. The present ITR is dismissed as infructuous.

ITR No. 227 of 1995

4. Learned counsel for the appellant prays for permission to withdraw the present reference in view of circular No. 3/2018 as the taxable amount is less than Rs.50 Lakh.

5. Allowed as prayed for.

6. Dismissed as withdrawn.

ITR No. 224 and 225 of 1995

7. This order shall disposed of ITR Nos. 224 and 225 of 1995. The questions are identical and for facility of reference, the facts are taken from ITR No. 225 of 1995. In the said case, following questions of law arises:-

> "1. Whether on the facts and in the circumstances of the case, the Tribunal is right in upholding the addition of Rs.88,479/- on account of alleged suppression of the value of closing stock and the said addition is legally sustainable in

view of the constantly followed and accepted method of accounting to value the closing stock in the past?

2. Whether on the facts and in the circumstances of the case, the Tribunal is right in sustaining the addition of Rs.88,556/- made on account of accrual of interest on FDRs in the bank especially when the assessee has been consistently following the cash system of accounting for the receipt of interest?"

8. Learned counsel for the appellant admit that question No.1 is covered against the assessee by the decision in ITR No. 139 of 1999 (Assessment Year 1985-86) titled '***The Commissioner of Income Tax (Central), Ludhiana Versus M/s Kishan Chand & Co. Oil Inds. Ltd.'***, decided on 07.12.2011 and the present reference is decided in terms of ITR No. 139 of 1999. Ordered accordingly. Diposed of in same terms.

9. The only question remains is whether claim for refund/interest on FDR would be part of the income of the assessee in the year of their approval or in the year of their actual received?

10. The primary contention of the counsel for the assessee is that in any case the conclusion of these references would be revenue neutral because during the pendency of the matter before the Tribunal the tax stood paid.

11. Counsel for the respondent states that though he is not doubting the correctness of the statement, he is not in a position to corroborate it either. He, however, argues that on principle the decision of the Tribunal is correct and the amount in question have to be taken to be included in the income of the year of their approval and not in the year of their actual receipt. As per him, if the assessee has paid the tax, it would be subject to adjustment. The Tribunal noticed that the assessee had been using the

approval system as a practice but had resorted to the cash system randomly and came to the conclusion that this could not be permissible.

12. We have no hesitation in accepting this exposition of law and consequently uphold the findings of the Tribunal and decide the reference accordingly, with the caveat made by the counsel regarding payment of tax in subsequent years and its exigibility to adjustment.

13. Disposed of in above terms.

14. Since the main case is decided pending CM, if any, stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

24.07.2019
pooja saini

Whether speaking/reasoned? *Yes/No*

Whether reportable? *Yes/No*