

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA-144-1999 (O&M)
Date of Decision : 6.11.2019

Sh. Balbir Chand Virmani

..... Appellant

Versus

Commissioner of Income Tax and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MS. JUSTICE ALKA SARIN

Present : Mr. Alok Mittal, Advocate
for the appellant.

Mr. Varun Issar, Junior Standing counsel
for the respondents.

AJAY TEWARI, J. (Oral)

1. This appeal has been filed under Section 260A of the Income Tax Act, 1961 against the order dated 28.6.1999 of the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (ITAT) allowing an appeal filed by the Revenue wherein it had challenged the deletion of certain additions done by the Commissioner.

2. Brief facts of the case are that some additions had been made by the Assessing Officer during a search and seizure operation at the business and residential premises of the assessee on 12.5.1989, during that procedure certain books and documents were found. During the course of assessment procedure in the year 1989-90 the assessee had stated that certain entries (which were found in the books of account

which was seized during the search and seizure) would be explained in the next financial year that is 1990-91. However, subsequently no explanation was furnished and thus he made an addition of Rs.1,34,870/- treating as assessee's income from outside sources in the books of account.

3. In appeal the Commissioner held that since the documents which were recovered did not bear the handwriting of the assessee and any person associated with him, he was not bound to disclose what they were representing and consequently, deleted those additions.

4. In the appeal filed by the Revenue, the Tribunal held that figures which were written in a diary which was seized from the house of the assessee would have to be explained to some extent at least, and the assessee could not get away merely by asserting that even though those diaries were recovered from him yet since the handwriting was not proved to be his, he had no duty at all to explain about all those figures. The Tribunal also noticed that the assessee had initially owned these entries and had stated that they were of subsequent years i.e. 1990-91 and he would explain them in that year's return but he did not explain them.

5. In our considered opinion, the reasoning adopted by the Tribunal is correct while that adopted by the Commissioner was perverse. Once the assessee accepted the documents which were seized from his premises, and once he had owned the entries and undertaken to explain them in the next financial year and had not offered any explanation whatsoever the amount representing were rightly added to other income of the assess.

6. There is another dispute regarding application of Gross

Profit (GP) rate on the difference of the stock which was physical present in stock register. In regard to this issue, the finding of the Tribunal is a pure finding of fact and no sufficient cause has been shown to us to reverse the same.

- 7. Consequently, the appeal stands dismissed.
- 8. Since the main case has been dismissed, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(ALKA SARIN)
JUDGE

6.11.2019
anuradha

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No