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

Sr. No.102

ITA No.98 of 2019 (O&M)
Date of Decision : 03.03.2020

The Pr. Commissioner of Income Tax, Rohtak ...... Appellant

Versus

M/s Harish Chandra (India) Ltd., Rohtak ...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE AVNEESH JHINGAN
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Present : Mr. Sandeep Goyal, Advocate
for the appellant.

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AJAY TEWARI, J. (ORAL)

1. This appeal has been filed against the judgment of the Tribunal whereby the appeal filed by the Revenue was rejected.

2. The following questions of law have been proposed:-

1. Whether the Ld. ITAT was right in law as well as on facts in upholding the order of Ld. CIT(A) in deleting the addition of Rs.15,53,42,066/- made by the AO on account of difference in the net profit ratio of 4.40% as compared to the preceding year by invoking the provisions of Section 145(3) of the Income Tax Act, 1961.
2. Whether the Ld. ITAT was right in law as well as on facts in upholding the order of Ld. CIT(A) in deleting the addition of Rs.15,53,42,066/- made by the AO without adjudicating the issue of net profit ratio and simply relying upon the remand

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report whereas in the remand report, the issue was not examined at all.

3. Whether the Ld. ITAT was right in law as well as on facts in upholding the order of Ld. CIT(A) in deleting the addition of Rs.15,53,42,066/- made by the AO, without appreciating the decision of Hon'ble Supreme Court in the case of S.N. Namasivyam Chettiar vs. CIT (38 ITR 579 (SC) wherein it was held that in absence of vouchers/quantitative tally of stock, profit can be estimated by the ITO.

3. Brief facts are that the Books of Accounts of the assessee were found to be doubtful on the ground that Net Profit rate had dropped drastically in the preceding years. Subsequently, a remand was ordered and in the remand report the Books of Accounts produced were checked but no finding of any discrepancy was ascertained. It was in these circumstances that the Commissioner allowed the appeal of the assessee and that finding was upheld by the Tribunal.

4. In this view of the matter, the questions proposed are pure questions of fact and not questions of law much less substantial questions of law.

5. Consequently, the appeal is dismissed.

6. Since the main case has been decided, the pending C.M. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

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Whether speaking/reasoned Yes/No
Whether Reportable : Yes/No

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