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

ITA No.124 of 2000 (O&M)
Date of decision : 14.01.2020

M/s Grewal Electric Corporation .... Appellant

versus

Commissioner of Income Tax, Chandigarh & anr. . ..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE AVNEESH JHINGAN

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

Mr. Yogesh Putney, Advocate
for the respondents.

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AJAY TEWARI, J. (Oral)

1 This appeal has been filed against the order of the Tribunal upholding an addition of Rs.2,72,787/- for the assessment year 1990-1991.

2. During the course of assessment proceedings the Assessing Officer noticed a substantial difference between the closing balance in the account of the partners/ex-partners as on 31.03.1989 amounting to Rs.3,51,405/-. The Assessee was asked to explain the difference and it filed a reply stating that in the previous six years it was not maintaining complete books of accounts and had been filing returns on estimate basis by applying a flat rate on the gross receipts. For the year under reference it was submitted that profit and loss account and balance sheet were filed but the books were not produced and a flat rate of 10% was once again

applied which the Assessee agreed to resulting in an addition of Rs.84,730/-. Further plea was that the 'difference' represented the income of the preceeding assessment year not disclosed in those years but introduced in the books of accounts as on 01.04.1989. Further plea was that these amounts could not be subjected to tax either in the assessment year 1990-1991 or in the preceeding Assessment Year since the sum brought into the books of accounts and credited in the names of different partners/ex-partners did not have any attributes of income. The alternative submission was that in case the amount of Rs.3,51,405/- was to be treated as income then the Assessee may be permitted to set off as allowed in respect of intangible addition made in earlier years.

3. The Assessing Officer considered this matter and declined both the prayers holding that the first argument that the amount represented income of the previous years would not hold water because all the partners had an equal share and if this was so then equal amount would have been credited into their accounts.

4. As regards the set off the Assessing Officer found that the set off had been claimed for this amount in 01.04.1989 and therefore disallowed the prayer for setting off the amount under the intangibles of previous years. In appeal, the Commissioner Income Tax allowed set off to the tune of Rs.78,618/- in respect of intangible additions pertaining to the year 1988-1989 but confirmed the remaining addition of Rs.2,72,787/-. In second appeal the Tribunal also held that the source of this amount had not been proved and dismissed the appeal.

5. In our considered opinion, no fault can be found with this finding of fact. Question of law does not arise.

6. Appeal stands dismissed.

7. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

January 14, 2020
pooja sharma-I

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No