IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA No. 139 of 2000
Date of decision: 28.1.2020

Smt. Mohinder Kaur

.. Appellant

v.

Commissioner of Income Tax, Chandigarh and another
.. Respondents

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

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

Mr. Rajesh Katoch, Senior Standing Counsel and
Ms. Pridhi Jaswinder Sandhu, Junior Standing Counsel for the respondents.

...

AVNEESH JHINGAN, J.

By this common order, two appeals bearing ITA Nos. 138 and 139 of 2000 are being disposed of as similar issue is involved. The appeals are for the assessment years 1989-90 and 1990-91. For the sake of convenience, facts from ITA No. 139 of 2000 have been taken. Following substantial questions of law have been claimed:

"(i) Whether in the facts and circumstances of the case, the orders Annexures P-1, P-2 and P-3 are legally sustainable?

(ii) Whether in the facts and circumstances of the case, the addition of Rs. 3,52,607/- can be legally sustained, based on rejection of books of account but there being no discrepancy in the documents produced before the Assessing Authority and the same having been accepted as correct?

(iii) Whether in the facts and circumstances of the case, the respondents were legally justified in making the addition of Rs. 3,52,607/- on account of income from sale of IMFL liquor on mere presumptions and surmises without there being any independent evidence on record to corroborate the same?

(iv) Whether in the facts and circumstances of the case, the addition of Rs. 3,25,607/- is legally sustained in view of the decision of the learned Tribunal in the cases of M/s Anil Kumar Dogra and Company reported in ITA No. 564/Chandi/93 and in the case of Som Dutt Dogra & Co. reported in ITA No. 565/Chandi/93?"

The facts necessary for adjudication are that the return for the assessment year 1990-91 was filed declaring income of ₹1,01,880/-. The case was taken up for scrutiny and the Assessing Officer considering that no sale register, stock register, sale vouchers were maintained and there was no breakage claimed by the assessee, rejected the books of account being not verifiable and made addition vide order dated 31.1.1992.

The dispute in the present appeal is with regard to 1% estimated profit on the sale of Indian Made Foreign Liquor (for short, 'IMFL'). The assessee had made sales to the tune of ₹1,23,65,531/- and claimed losses. The Assessing Officer considered the fact that the assessee was in liquor business since long and there are no reasons given for the loss incurred and thereafter made addition.

The Appellate Authority dismissed the appeal on 29.9.1992. The appeal before the Tribunal met the same fate on 25.4.2000, hence the present appeal.

Learned counsel for the appellant argued that a certificate from the Excise Authorities with regard to sale and purchase of liquor was produced before the Assessing Officer and there was no occasion to doubt the same and to estimate profit of 1% on sale of IMFL.

The contention raised lacks merit. The certificate produced was with regard to lifting of quota of IMFL and the sale thereof. It was only with regard to quantitative figure and not of the sale figure. The Assessing Officer had accepted the sale figure shown by the assessee but in the absence of any reliable evidence and the books of account being not worth reliance, rejected the losses claimed on sale of IMFL. Considering the various aspects, 1% profit was estimated on the sale figure shown by the assessee.

In the absence of any serious challenge to the rejection of books of account, the estimation of profit is not unreasonable or arbitrary. There was neither any sale register maintained nor there were sale bills. The authorities had appreciated the factual aspect and evidence before them. No interference is called for in the estimated profit of 1% on sale of IMFL.

No question of law much less substantial question of law arises.

The appeals are dismissed.

(AVNEESH JHINGAN)
JUDGE

(AJAY TEWARI)
JUDGE

28.1.2020
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No