

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA No. 82 of 2000

Date of decision: 13.1.2020

M/s Jullundur Engineering Complanly, Jalandhar
.. Appellant

v.

Commissioner of Income Tax, Jalandhar 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. Vivek Sethi, Senior Standing Counsel for the Revenue.

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AVNEESH JHINGAN, J.

The assessee is in appeal under Section 260A of the Income Tax Act, 1961 (for short, 'the Act') against the order dated 28.2.2000 passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal') partly allowing the appeal of the revenue. Following substantial questions of law have been claimed in the appeal:

- “(i) Whether in the facts and circumstances of the case, the orders Annexures P-1 and P-3 are legally sustainable?
- (ii) Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in sustaining an addition of Rs. 12,89,080/- (wrongly typed as addition sustained is of Rs. 11,88,530/-) on account of discrepancy

between the stocks as per books of account and as per bank records?

- (iii) Whether in the facts and circumstances of the case, the I.T.A.T. was right in sustaining the addition of Rs.12,89,080/- in view of the statements given by the bank officials that the stocks statement as furnished on 31.3.1988 continued to be reflected in their accounts being upto 28.4.1988?
- (iv) Whether in the facts and circumstances of the case, the I.T.A.T. was right in sustaining the addition of Rs.12,89,080/- on account of discrepancy between the stocks reflected in the books of account and as per bank records specially when the discrepancy was only as regards the entry made in the D.P. Register and with the infirmity, defect or discrepancy as otherwise present in the books of accounts of the assessee-appellant?
- (v) Whether in the facts and circumstances of the case, the I.T.A.T. was right in sustaining the addition of Rs.12,89,080/-, the same being made without any basis ignoring the cogent and material evidence placed on record by the assessee-appellant showing to the contrary?"

The necessary facts are that the assessee on 31.10.1989 filed return for the assessment year 1989-90, declaring income of ₹97,480/-. During the assessment proceedings, discrepancy of stock in terms of quantitative as well as value reflected in the books of account and furnished

to the bank for hypothecation and pledge was noticed by the Assistant Commissioner of Income Tax Circle 1(2), Jalandhar (hereinafter described as 'the Assessing Officer'). Show cause notice was issued stating that in the books of account the value as on 28.4.1988 of closing stock is shown as ₹25,96,803/-, whereas as per D.P. Register with the bank, it was ₹49,50,106/-. The assessee re-casted the trading account and showed the value of closing stock as on 28.4.1988 of ₹21,39,176/-. The difference was explained under three heads. The explanation with regard to ₹12,73,000/- was accepted by the Assessing Officer. As regards to ₹12,89,080/-, the assessee averred that the stock was pledged from the already hypothecated stock. For the remaining difference of ₹3,44,000/-, it was stated that the stock was to be received and pledged. The Assessing Officer rejected both the contentions and vide order dated 26.3.1992, apart from other additions made addition of ₹15,32,530/- on account of stock difference. Appeal was filed and the Commissioner of Income Tax (Appeals), Jalandhar [for short, 'the CIT (A)'] vide order dated 16.2.1993 allowed the appeal. The appeal filed by the revenue before the Tribunal was partly allowed on 28.2.2000. The explanation with regard to ₹3,44,000/- for difference in stock was accepted and the addition to the tune of ₹11,88,530/- on account of discrepancy in stock was sustained, hence the present appeal.

Learned counsel for the assessee argued that the Tribunal erred in sustaining the addition, as a certificate from the bank was produced to the effect that no statement of stock as on 28.4.1988 was filed by the assessee. He submitted that figure as on 31.3.1988 of stock value of ₹20,44,026/- was reproduced by the bank. Contention is that from the hypothecated stock, pledge of stock worth ₹12,89,080/- was made.

The contentions raised do not warrant any interference in the order of the Tribunal. The assessee before the Assessing Officer failed to produce any evidence worth reliance, explaining the difference of stock. The books of account of the assessee were rejected and estimate profit on account of trading was calculated. The Assessing Officer examined the bank official and during his cross-examination, it transpired that the previous figure given by the assessee was repeated unless there was change in stock position. Meaning thereby from 31.3.1988 to 28.4.1988 the assessee never informed the bank that the stock had reduced.

The argument that no stock statement as on 28.4.1988 was filed by the assessee does not enhance its case, rather the position comes to that the stand of the assessee with the bank was that hypothecated stock worth ₹20,44,026/- as it existed on 31.3.1988 continued till 28.4.1988. The stock position as per the D.P. Register as on 28.4.1988 is tabulated below:

“i) Hypothecation A/c	Rs.20,44,026/-
ii) Pledge A/c	Rs.12,73,000/-
iii) Pledge A/c	Rs.12,89,080/-
iv) To be pledged	Rs.3,44,000/-

	Rs.49,50,106/-
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The issue raised is only with regard to pledge of ₹12,89,080/-. The contention is that the stock was from the hypothecated stock of ₹20,00,000/- odd. To substantiate the said claim, no evidence was produced before the authorities. The bank was never informed that the hypothecated stock was reduced and out that ₹12,00,000/- odd of stock was pledged. The assessee failed to discharge the onus of explaining the discrepancy.

The matter can be viewed from another angle, i.e., as and when there was additional stock of ₹3,44,000/-, the assessee approached the bank to show that the stock had increased. The said stock was pledged with the bank on 29.4.1988 and thereafter drawing power was enhanced by ₹2,33,600/- and accordingly the value of stock was changed by the bank. The value of hypothecated stock as on 31.3.1988 was repeated subsequently on 16.4.1988 and 24.8.1988 as there was no change of value of stock and the same was not informed to the bank.

The assessee failed to prove incorrectness of entries of D.P. Register. The evidence was duly considered by the Tribunal and partial relief was granted.

No error or illegality is shown in the order of the Tribunal sustaining addition of ₹11,88,530/-. No question of law much less substantial question of law arises, rather the contentions are purely factual.

The appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

(AJAY TEWARI)
JUDGE

13.1.2020
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No