IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

409 **ITA No.21 of 2001 (O&M)**
Date of Decision : 27.1.2020

M/s.Kishan Chand Co. Oil Industries Limited
...... Appellant

Versus

The Commissioner of Income-Tax (Central) and another
..... 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. Rajesh Katoch, Sr. Standing counsel with
Ms. Pridhi Jaswinder Sandhu, Jr. Standing counsel
for the respondents.

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AJAY TEWARI, J. (Oral)

1. This appeal has been filed by the assessee under Section 260-A of the Income Tax Act, 1961 against the order dated 30.5.2000 passed by the Income Tax Appellate Tribunal, Chandigarh Bench (for short 'the ITAT') in income Tax Appeal No. 1093/Chandi/92 relating to assessment year 1983-84. The appellant has claimed following questions of law :-

> *"i. Whether in the facts and circumstances of the case, orders Annexures P-1 and P-4 are legally sustainable ?*
>
> *ii. Whether in the facts and circumstances of the case, the addition of Rs. 1,24,375/- can be legally sustained especially in view of the fact that the basic premise adopted by the assessing authority for making the addition i.e. the non-existence of Verma Trading Co. Etah, has been proved manifestly erroneous ?*

iii. Whether in the facts and circumstances of the case, the addition of Rs.1,24,375/- is legally tenable especially in light of the fact that the reasoning advances for sustaining the addition i.e. absence of octroi receipt in respect of the said consignment, clearly stands negated as the said octroi receipt is very much a part of the material placed on record ?

iv. Whether in the facts and circumstances of the case, is the revenue legally justified in making the addition of Rs.1,24,375 as such addition is based on mere presumptions and surmises and is in complete disregard of the evidence placed on record ?"

2. On 19.10.2001 the following order was passed :-

"*Admitted.*

To be posted with I.T. Ref. No. 229 of 1995."

3. Today learned counsel for the appellant states that ITA No. 229 of 1995 has been decided but would not effect the decision of this case.

4. Brief facts of the case are that the appellant-company was the manufacturer and seller of Vanaspati. It had filed its return of income for the assessment year 1983-84 on 24.2.1984 with an income of Rs. 19,50,000/ and then filed revised return of income for the same assessment year on 29.3.1985 with an income of Rs. 20,79,200/-. It had claimed purchases of Rs. 4,56,100/- from an entity Verma Trading Company in Jalesar, District Etah, Uttar Pradesh. The Assessing Officer, Agra reported that no such company existed at the address and consequently in the assessment of the appellant the entire sum was added to the income. In appeal, the CIT found that for three out of the four transactions octroi bills were presented, coupled with the fact that the

payment had been made through bank and the benefit thereof was given to the appellant. However, for the 4th transaction the case of the appellant was that it had no octroi bill but it had obtained certificate from check barrier that the tanker with the registration No. DHL-5035 had passed on 15.5.1982 and it had made the payment through bank. The evidence showed the passage certificate of a vehicle bearing registration No. DHL-5035 and not DHG-5035 and it never established that goods were related to the appellant. Moreover, there was a discrepancy of Rs.10,000/- in the payment since the payment which was shown to have been made through Bank was Rs. 1,14,415/- while transaction value was claimed was Rs. 1,24,375/-. Due to these discrepancies the CIT held that this transaction was not proved and sustained this addition. The ITAT accepted this finding and that is how the appellant is before this Court.

5. In our considered opinion, the finding is a pure finding of fact and learned counsel has not been able to show us that it is based on a perverse reading of the evidence.

6. Accordingly, no substantial question of law proposed arises. Consequently, the appeal stands dismissed.

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

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

27.1.2020
anuradha

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