

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 29.03.2023

1.

ITA No.127 of 2021 (O&M)

Arvind Kumar

...Appellant

Vs.

Income Tax Appellate Tribunal and others

...Respondents

2.

ITA No.55 of 2021 (O&M)

Arvind Kumar

...Appellant

Vs.

Income Tax Appellate Tribunal and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Ms. Priyanka Chaudhary, Advocate,
for the appellant(s).

Ms. Pridhi Jaswinder Sandhu, Sr. Standing Counsel,
for the respondent(s).

Ritu Bahri, J. (oral)

**CM-10512-CII of 2021
CM-10513-CII-2021 in
ITA No.127-2021**

For the reasons stated in the applications, same are allowed and
delay of 285 days in filing and 127 days in refiling of the appeal is
condoned.

Main Cases

This judgment shall dispose of ITA No.127 and 55 of 2021 together as common questions of law and facts are involved in both the appeals. For reference, facts are being taken from ITA No.127 of 2021.

Appellant-assessee has come up in appeal against the order dated 12.02.2019 (Annexure A-5) passed by the Income Tax Appellate Tribunal, Delhi Bench, New Delhi in ITA No.5315/Del/2018, for the assessment year 2014-15, as well as order dated 05.06.2018 (Annexure A-3) passed by the Commissioner of Income Tax (Appeals).

Brief facts of the case are that the appellant-assessee is engaged in an agro based industry and manufacturing of bio-fuel briquettes. The appellant also deals with sanitary items. The manufacturing of bio-fuel briquettes is under the name and style of 'Siddhi Bio-tech Industries', whereas the sanitary items are dealt under another concern under the proprietor name of 'Hindustan Sanitary Plaza.' The appellant filed the computation and returns for the assessment year 2014-15. Thereafter, a demand notice dated 22.08.2016, under Section 156 of the Income Tax Act, 1961, for a sum of Rs.8,75,830/- was issued to the appellant. As per the information furnished by the appellant, a gross total of Rs.10,48,419/- was made from 'Siddhi Bio-tech Industries' and Rs.1,41,547/- was made from the sanitary business.

Vide order dated 22.08.2016 (Annexure A-1), the Assessing Officer made an addition of Rs.14,62,636/- in the income on the basis of discrepancy in the stock and that the closing stock was short by the said value. The entire value of the stock was added into the income. With respect

Rs.47,00,761/-, the Assessing Officer held that 1/4th of the expenses claimed were not genuine and accordingly, added an amount of Rs.11,75,190/-. Total tax payment was to the tune of Rs.27,77,280/-. On this income, interest under Section 234B and 234C of the Income Tax Act was charged. Penalty proceedings under Section 271 (1) (c) of the Act for concealment of income/furnishing inaccurate particulars of income were directed to be initiated separately. Against this order, the appellant filed an appeal before the Commissioner of Income Tax (Appeals), Rohtak, which was partly allowed vide order dated 05.06.2018. As far as the addition on account of undisclosed stock was concerned, the appeal was dismissed, however, with respect to the addition on account of disallowed 25% of the expense, the disallowance was restricted to 1/10th of the expenditure i.e. Rs.4,70,000/- instead of earlier computation of Rs.11,75,190/-. The appellant challenged the said order by filing an appeal before the Income Tax Appellate Tribunal, which was dismissed vide order dated 12.02.2019 (Annexure A-5). Hence, the present appeal.

The main ground in appeal before the Tribunal was that the assessee's alternative claim to allow automatic deduction under Section 80JJA on aforesaid addition of Rs.14,62,636/- was denied on invalid reasons and against the binding and cited CBDT circular No.37/2016. The Tribunal has examined this aspect by observing that the Assessing Officer has made this addition on account of non-disclosure of closing stock of Rs.14,62,636/- as it was not shown in column 4 of Part A, P&L in the income tax return. Hence, the Assessing Officer has rightly observed that the excess of assets in the shape of closing stock was his profit, which was not declared as income

Learned counsel for the appellant has not been able to produce any document to show that in column 4 of Part A, P&L, the closing stock of Rs.14,62,636/- was ever shown before the Assessing Officer. Moreover, the assessee's claim that he should get benefit of provision of deduction under Section 80JJA of the Act was also held to be not tenable because the addition had been made on account of undisclosed closing stock of Hindustan Sanitary Plaza and this concern was dealing with the sanitary items. This income was not derived from the activity of manufacturing, which is covered under Section 80JJA of the Act and no deduction was allowable.

The Assessing Officer was dealing with the assessment of the company manufacturing bio-fuel briquettes. While filing return of income in respect of manufacturing items, deduction qua the stock of Hindustan Sanitary Plaza could not be given under Section 80JJA of the Act. The Tribunal has rightly rejected the claim of the appellant on this ground as well as on the ground of non-disclosure of the closing stock of Rs.14,62,636/-.

With respect to the second aspect of sustaining of addition of Rs.4,70,000/-, the Tribunal has observed that the Assessing Officer has disallowed 25% of the expenses claimed under the heads consumables, power/fuel, packing, freight, miscellaneous, telephone, conveyance, travelling etc. as no vouchers were produced for expenditure claimed as Rs.47 lacs. The Assessing Officer had given full opportunity to the assessee, who could submit evidence of expenditure of about Rs.8 lakhs out of his claim of Rs.54.92 lakhs. The Tribunal has further held that the disallowance was rightly restricted to 1/10th of the expenditure, which had not been substantiated by the assessee, which comes to about Rs.4,70,000/-.

After going through the impugned judgment, this Court is of the view that in this case, the Tribunal has rightly dismissed the appeal(s) of the assessee by appreciating the evidence in the right perspective. Moreover, the appellant-assessee has not led any cogent and convincing evidence to prove his case. No substantial question of law arises for consideration in these appeals.

Resultantly, finding no merits, the present appeals i.e. ITA No.127 of 2021 and ITA No.55 of 2021 are dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

29.03.2023
ajp

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