IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 13.10.2023

1. ITA No.8531 of 2018 (O&M)

Pr. Commissioner of Income Tax, Panchkula

.....Appellant

Versus

Jamna Auto Industries Ltd.

.....Respondent

2. ITA No.8532 of 2018 (O&M)

Pr. Commissioner of Income Tax, Panchkula

.....Appellant

Versus

Jamna Auto Industries Ltd.

.....Respondent

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

Present: Mr. Yogesh Putney, Senior Standing Counsel,
for the appellant(s).

Mr. Sandeep Sapra, Advocate,
for the respondent(s).

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Ritu Bahri, J.

1. This judgment shall dispose of ITA No.8531 of 2018 and ITA No.8532 of 2018 together as common questions of law and facts are involved in both the appeals. For reference, facts are being taken from ITA No.8531 of 2018.

2. The instant appeal (ITA No.8531 of 2018), under Section 260A of the Income Tax Act, 1961, has been filed against the order dated 19.06.2018 (Annexure A-3) passed by the Income Tax Appellate Tribunal, Chandigarh, in ITA No.836/CHD/2017, in respect of the assessment year 2009-10,

whereby appeal filed by the respondent-assessee against the order dated 06.03.2017 passed by the Commission of Income Tax (Appeal), Karnal, has been allowed and the appeal filed by the revenue has been dismissed.

3. The respondent-assessee (Jamna Auto Industries Ltd.) is engaged in the business of manufacturing and marketing of Spring and Spring Leaves. The Assessing Officer, during the course of the assessment proceedings, made an addition of Rs.25,60,84,653/- on account of the fact that 4000.806 MTs of finished goods were the product of excess scrap. For the purpose of calculating the percentage (%) of scrap generated during the year, the assessment worked out to 7.2% and not 6.8% as had been worked out by the assessee. The average scrap generated during the earlier three years worked out to 6.8%. The assessee had produced 0.4% more scrap during the year under assessment. The excess scrap was utilized for production of 4000.806 MTs of finished goods. The average sale prices is taken as Rs.64.008.26 per M.T. the working of the sale price of Rs.25,60,84,653/- is detailed as under:-

> "Total sale consideration declared in the printed booklet exclusive of excise duty 45245.30000 less sales to the subsidiary company SFG 171224220
>
> Sale of finished goods 4353305780
>
> Quantity of finished goods 68011.619
>
> Average sale price 64008.26 per M.T."

4. The Assessing Officer observed that the finished goods were produced out of the books and in this backdrop, whole of the sale value of Rs.25,60,84,653/- was deemed to be the income. Before the CIT (Appeals), the main ground taken by the assessee was that the assessee company was a

reputed company with all statutory books of account and supporting documents. It was also stated that the Assessing Officer has neither rejected the books of accounts nor pointed out any discrepancies in any of the books of accounts or registers relating to manufacturing, stock registers, scrap registers or bills and vouchers. The CIT (Appeals) had accepted the arguments raised on behalf of the assessee that the sale of semi finished goods made during the year was well documented and there was no excess scrap at all. Hence, the appeal filed by the assessee was allowed and the Assessing Officer was directed to delete the addition.

5. Aggrieved by the said order, the Revenue filed an appeal before the Tribunal. The Tribunal examined the issue and held that no reason was given by the Assessing Officer, as to why the value of semi finished goods sold to its sister concern should not be considered in the total production of the year for the purpose of determining the percentage of scrap generated. The Assessing Officer has neither rejected books of account nor brought out any evidences to support the suspicion that there was unaccounted manufacturing and sale of finished goods nor has AO made out any case that there were unaccounted sales. The additions were made merely on suspicion. Finally, the order passed by the CIT (Appeals) was upheld and the appeal filed by the revenue was dismissed.

6. Vide order dated 03.05.2023, learned counsel for the parties were directed to place on record assessment order passed after 2010 with respect to the semi finished goods. Pursuant to the said order, learned counsel for the respondent-assessee, has placed on record documents (Annexure R-1 to R-11). Annexure R-1 is the comparative chart of the additions made on account of the finished goods manufactured and sold outside the books of

accounts for the assessment years 2009-2010 to 2014-2015, relevant portion thereof is reproduced as under:-

Assessment Year	Semi Finished Goods sold by Assessee Co. to Jai Suspension Systems in Metric Ton	Addition made by the AO	Treatment by CIT (A)	Treatment by ITAT
2009-10	3,434 MT	Rs.25,20,84,653	Addition of Rs.25,20,84,653 deleted	Revenue's appeal dismissed.
2010-11	11,448 MT	Nil vide assessment order u/s 143 (3) dated 28.01.2013	NA	NA
2011-12	15,495 MT	Nil vide assessment order u/s 143 (3) dated 28.04.2014	NA	NA
2012-13	23,067 MT	Nil vide assessment order u/s 143 (3) dated 25.03.2015	NA	NA
2013-14	33,424 MT	Nil vide assessment order u/s 143 (3) dated 29.02.2016	NA	NA
2014-15	29,513 MT	Nil vide assessment order u/s 143 (3) dated 30.12.2017 and also vide TPO order u.s 92CA (3) dated 12.10.2017	NA	NA

7. A perusal of the above chart shows that the assessee has been selling semi-finished goods to its subsidiary entity namely M/s Jai Suspension System since the assessment year 2009-2010 till 2014-2015. The addition of Rs.25,20,84,653/- was made by the Assessing Officer for the assessment year 2009-2010 and this was set aside by the CIT (Appeals).

However, for the assessment years 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015, no addition was made qua the semi finished goods manufactured and sold outside the books of accounts. As per the above stated chart, in all the subsequent years, assessment orders have been passed under Section 143 (3) of the Act. A perusal of the assessment orders (Annexures R-2 to R-11) shows that consistently the sales of semi finished goods made by the appellant to M/s Jai Suspension Systems as a sister concern have been accepted and account books to this extent have also been accepted by the Assessing Officer.

8. Learned counsel for the appellant-revenue has not been able to dispute the correctness of the aforesaid orders (Annexures R-2 to R-11) passed under Section 143 (3) of the Income Tax Act, 1961. After 2009-2010, no addition has been made in the income of the appellant towards the sales of semi finished goods to M/s Jai Suspension Systems.

9. Keeping in view the above discussion, no ground is made out to interfere the impugned order as the same has been passed after appreciating the evidence in the right perspective. No substantial question of law arises for consideration.

10. Resultantly, finding no merits, present appeals i.e. ITA No.8531 of 2018 and ITA No.8532 of 2018 are dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

13.10.2023
ajp

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