

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
Neutral Citation No.2024:PHHC:012389-DB

(202) ITA No.92 of 2003
Parkash Chand Karori Mal, KapurthalaAppellant
Versus
Commissioner Income Tax, Jalandhar and anotherRespondents

(2) ITA No.89 of 2003
M/s Anand Rice Trading Co.Appellant
Versus
Commissioner Income Tax, Jalandhar and anotherRespondents

(3) ITA No.90 of 2003
M/s Aggarwal Rice MillsAppellant
Versus
Commissioner Income Tax, Jalandhar and anotherRespondents

(4) ITA No.91 of 2003
M/s Aggarwal Rice MillsAppellant
Versus
Commissioner Income Tax, Jalandhar and anotherRespondents

Decided on : 30.01.2024

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI**

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

Ms. Gauri Neo Rampal Opal, Senior Standing Counsel
for the respondents.

G.S. Sandhawal, J. (Oral)

The present judgment shall dispose of four appeals i.e. ITA
Nos.92, 89, 90 & 91 of 2003. Facts are being taken from ITA No.92 of
2003 ‘Parkash Chand Karori Mal Vs. Commissioner Income Tax,

Jalandhar and another', which has been filed under Section 260A of the Income Tax Act, 1961 (for short 'the Act') against the order dated 09.01.2003 passed in ITA No.246 (ASR)/2002 for the Assessment Year 1998-1999.

2. The only substantial question which is sought to be raised reads as under:-

“7 (c) Whether in the facts and circumstances the Annexure P/1 and P/3 are untenable in law in as much as the lower authorities committed an error in not accepting the audited book results based on books account maintained in the normal course of business as the business of the appellant firm is inspected by other Department-such as Sales Tax Department and Department of Market Committee and furthermore whether the action of the respondent is arbitrary as the books of account have not been rejected and the relevant authorities have not taken recourse to Section 145 while fixing the percentage?

3. A perusal of the assessment order dated 19.03.2001 (Annexure P-1) would go on to show that the return for the assessment year 1998-1999 had been filed on 30.09.1998 declaring an income of ₹9,160/-. The same was processed under Section 143(1)(a) of the Act on 10.10.2000 and the case was selected for scrutiny with the prior approval of Joint Commissioner of Income Tax, Range-2, Jalandhar. Notices under Section 142(1) and 143(2) of the Act were accordingly issued. It is the case of the appellant that books of accounts and the information as called for had been furnished and examined. The assessing authority had noticed that 77869 qtls. paddy had been processed and *phoos* worth of Rs.6,62,214/- had been manufactured. After taking into consideration the instances of sale rates of *phoos*, the average sale and closing stock

valuation of *phoos*, the rate of *phoos* was taken ₹90/- per qtl. Resultantly, the value of the *phoos* was calculated as under:-

“17% of total paddy processed at 77869 quintals = 13237

a. Value at the rate of Rs.90 per quintal = 1191330/-

b. Value of *phoos* disclosed = 662214/-

Value of *phoos* suppressed (a-b) = 476060/-”

4. Resultantly, an addition of ₹5,29,116/- on account of supersession in *phoos* was made. In the appeal filed before the Commissioner, Income Tax, a finding was recorded that a stereo-type order had been passed by the Assessing Officer and *phoos* was quantified at 9345 qtls. Accordingly, the appeal of the assessee was allowed and the addition made of ₹5,29,116/- was deleted.

5. The revenue had taken the matter before the Appellate Tribunal, wherein while recording the finding that some *phoos* was used in the dryer for drying the paddy, however no day-to-day record was maintained by the assessee and no norms were fixed as to how much *phoos* could be used for the purpose of drying the paddy, since it depends upon many factors like contents of the moisture in the paddy and the conditions of the environment. Resultantly, 5% of the paddy milled and produced of raw rice was the methodology which was adopted and the Assessing Officer was directed to give relief to the assessee @ 5% of the paddy milled on account of use of the *phoos* in the dryer for the production of raw rice instead of 8% allowed by the CIT(A) and directions were issued to recalculate the addition.

6. We are of the considered opinion that the Tribunal had rightly quantified the percentage, keeping in view the fact that in the absence of any record or norms the investigation had been done. In such circumstances, in the absence of any record being produced by the

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assessee, no substantial question of law would arise as has been framed in the present appeal. The Tribunal has used its discretion to grant the relief to the assessee, we do not see any tenable reason to entertain the present appeal, in the absence of any proven data or record being maintained by the assessee. Resultantly, the present appeals are dismissed.

(G.S. SANDHAWALIA)
JUDGE

30.01.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No