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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-68-2012 (O&M)
Date of Decision: 05.08.2024

BAL MUKAND AGGARWAL PROPERITOR, BAL IRON AND STEEL CO.
.......Appellant

V/s.

COMMISSIONER OF INCOME TAX, PATIALA (PUNJAB)
.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present Mr. Divya Suri, Advocate and
Mr. Sachin Bhardwaj, Advocate for the appellant.

Mr. Amanpreet (A.P.) Singh, Senior Standing counsel, for the respondent.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. This Appeal was admitted on the following questions of law by this Court vide order dated 29.04.2014:-

> *(i) Whether under the facts and circumstances of the case, the Tribunal order is unsustainable and perverse, while overlooking the 'Material on Record' and rejecting the consistency and regularity of the method of valuation, particularly while there is an erroneous assumption and application of jurisdiction, without invoking the provisions of Section 145 of the Income Tax Act, 1961?*
>
> *(ii) Whether the decision of CIT vs. British Paints India Ltd. (1992) Supp.(1)SCC 55 is a binding precedent for the principles of law regarding the method of valuation of stock?"*

2. The Income Tax Appellate Tribunal, Chandigarh Bench 'B' (hereinafter referred as "the ITAT"), in its order dated 27.09.2011, has found that the Assessing Officer (A.O.) had reached to the conclusion that the closing stock has been undervalued by showing item purchased by the

Assessee at lower rates. Market price of such items was found @ ₹26,500/- while the assessee had himself sold the same at the price of ₹23,478/-. Accordingly, the A.O. valued the closing stock of 391.190 MT @ ₹23,478/- as on 31.03.2007 @ ₹91,84,351/- against the declared amount of ₹73,15,253/-. The same was added to the incurred income of the Assessee and accordingly the tax amount was enhanced.

3. It is the submission of the learned counsel for the applicant-appellant that the CIT(Appeals) had examined the order of the A.O. and found that the A.O. had not rejected the books of accounts. Any rectification or adjustment to be made in the closing stock should be on the basis of the proper valuation. It was also stated that the method of valuation has been consistent as done by the appellant and there could not be any variation in the method of valuation and the Assessing Officer had wrongfully adopted the accounting method different from what the appellant has been consistently following.

4. The ITAT however reached to the conclusion that the closing stock is to be valued at costs of market price whichever is lower. The concept of average price, as adopted by the Assessee, in computing valuation of the closing stock is contrary to such established proposition. In view of the powers contained in Section 145 of the Income Tax Act, 1961 (hereinafter referred as "the Act") and considering the law as laid down in **A.L.A. Firm Vs. CIT**; *(1991) 189 ITR (SC)* following earlier judgement in **Chainrup Sampatram Vs. CIT**; *(1953) 24 ITR 481 (SC)*, the ITAT set aside the order of the CIT(Appeals) and upheld the order of the A.O.

5. As regards the question No.(i) framed as substantial question of law is whether "Material on Record" could be overlooked, we have already given our thoughtful consideration to the said aspect and find that the record material for assessing the value of stock has to be based on the market rate. However, in the present case, on facts, the A.O. has assessed it on the basis of the price on which the goods had been sold by the Assessee. If the market rate assessment is done, the tax effect could have been much more i.e. on the basis of amount of ₹26,500/-. While considering the sale price of goods by the Assessee @ ₹23,438/-, the A.O. has arrived at the value of stocks to be ₹91,84,358/-.

6. We are of the firm view that so far as the principle of consistency and validity of method of valuation is concerned, the same would remain same for different assessment years. However, so far as the valuation is concerned, for each year the market price of a particular goods may change and therefore, the value of the stock would also accordingly change and the same even for the same amount of stock, valuation will have to be different. Thus, it is for that purpose alone Section 145 of the Act has been introduced in the Income Tax, 1961 which reads as under:-

> ***"Section 145.***
> ***Method of accounting*** —
> *(1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.*
> *(2) The Central Government may notify in the Official Gazette from time to time 2 [income computation and disclosure standards] to be followed by any class of assessees or in respect of any class of income.*
> *(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) [has*

not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2)], the Assessing Officer may make an assessment in the manner provided in section 144.]"

7. In the present case, the valuation of stock has changed on account of the change in market price as well as change in the sale price, the average market could not have been taken up by the Assessee because the sale price of goods could not change in every year.

8. Keeping in view the above, we are in agreement with the view taken by the A.O. and affirmed by the ITAT and answer question No.(i) in favour of respondent-revenue.

9. As regards question No.(ii) framed by this Court for adjudication, we find that the decision of **CIT vs. British Paints India Ltd.;** (1992)Supp.(1)SCC 55 has laid down the method of valuation of stock, considering the facts and circumstances of the said case alone and would therefore not be a binding precedent in all cases as noticed above. The sale price of goods having not changed every year, the method of valuation of stock cannot be applied in the same manner as held in **CIT vs. British Paints India Ltd.** (Supra). We accordingly answer question No.(ii) in favour of the respondent/revenue.

10. In view of the aforesaid, the Appeal is ***dismissed***.

11. All pending applications filed in this case shall stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

August 5, 2024
Ess Kay

[SANJAY VASHISTH]
JUDGE

Whether speaking / reasoned : Yes / No
Whether Reportable : Yes / No

Suresh Kumar
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I attest to the accuracy and integrity of this document