

(2001) 10 P&H CK 0180

High Court Of Punjab And Haryana At Chandigarh

Case No: Income Tax A. No. 63 of 2000

Commissioner of Income Tax

APPELLANT

Vs

Fazilka Co-operative Sugar Mills
Ltd.

RESPONDENT

Date of Decision: Oct. 15, 2001

Citation: (2002) 177 CTR 255 : (2002) 255 ITR 411

Hon'ble Judges: Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench: Division Bench

Advocate: R.P. Sawhney and Jai Shree Thakur, for the Appellant;

Final Decision: Dismissed

Judgement

Jawahar Lal Gupta, J.

The assessee filed its return of income for the assessment year 1991-92. It declared a loss of Rs. 7,52,53,863. On December 7, 1992, the Assessing Officer completed the assessment and made an addition of Rs. 10,63,977 on account of the revaluation of the closing stock. This addition was made on the hypothesis that the valuation of the closing stock had to be done on the basis of the average price for the month of March, 1991. Thus, the final figure of loss was fixed at Rs. 7,37,64,371. This addition was affirmed by the Commissioner of Income Tax (Appeals). Aggrieved by the order, the assessee appealed to the Tribunal. The Tribunal accepted the assessee's claim with the following observations :

"5. I have gone through the order of the learned Commissioner of Income Tax (Appeals) and the authorities below. The appellant is consistently following average sale price of the year and not of the month of March. We do not find any infirmity in the method adopted by the appellant. More so, no benefit of enhancement value of closing stock has been given in the subsequent year. We, therefore, find no justification in the addition on account of valuation of closing stock."

2. Aggrieved by this order, the Revenue has now filed this appeal u/s 260A of the Income Tax Act, 1961.

3. Mr. Sawhney, learned counsel for the Revenue, contends that the value of the closing stock had to be fixed on the basis of an average sale price for the month of March, 1991. This was Rs. 763.51. The assessee had fixed the value of the stock at Rs. 753.83 per bag. The method adopted by the assessee was illegal. Thus, the addition was validly made. The Tribunal has erred in accepting the assessee's claim.

4. A perusal of the order passed by the Tribunal shows that the respondent-assessee had followed a consistent practice of fixing the value of the stock on the basis of the average price for the assessment year. This practice had been accepted by the Revenue. It has been further found that despite having made an addition of more than Rs. 7,00,000 in the value of the stock in hand, no corresponding benefit was given by the Revenue to the assessee for the assessment year 1992-93. This factual position has not been disputed. However, it has been contended that the assessee having not claimed the benefit, it was not entitled to make a grievance on that account.

5. We think that the plea is untenable. If the assessee had claimed the benefit, the Revenue would have contended before the Tribunal that the assessee has accepted the addition. Otherwise, the Revenue does not give the benefit. So, it wants the best of both the sides. Still further, it appears to us that the Revenue is only trying to fiddle with the figures. In fact, the addition to the value of the stock in hand has not resulted in any loss to the Revenue. The value which has been shown by the assessee has been carried forward to the next year. Thus, there is no loss of tax so far as the Revenue is concerned. In any case, the ultimate position is that the assessee has suffered loss.

6. Mr. Sawhney has drawn our attention to the observations of their Lordships of the Supreme Court in CIT v. British Paints India Ltd. : [1991]188ITR44(SC) . Learned counsel submits that the valuation of the stock gets distorted by the method followed by the assessee.

7. A perusal of the judgment shows that the assessee could have claimed the valuation of the stock on the basis of its cost. It has not been shown that the valuation shown by the assessee is less than the cost price. That being so, we find no infirmity in the view taken by the Tribunal.

8. No other point has been raised.

9. In view of the above, we find that no substantial question of law arises for the consideration of this court in this appeal. It is, accordingly, dismissed in limine.