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**(2009) 08 P&H CK 0262**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** IT Appeal No. 891 of 2008 (O and M)

Amba Rice Mills

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

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**Date of Decision:** Aug. 3, 2009

**Acts Referred:**

- Income Tax Act, 1961 - Section 260A

**Citation:** (2010) 325 ITR 33

**Hon'ble Judges:** Daya Chaudhary, J; A.K. Goel, J

**Bench:** Division Bench

**Advocate:** Pankaj Jain, for the Appellant;

**Final Decision:** Dismissed

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### **Judgement**

Adarsh Kumar Goel, J.

Delay condoned. Heard on the merits. The assessee has preferred this appeal u/s 260A of the income tax Act, 1961 (in short, "the Act") against the order of the income tax Appellate Tribunal, Chandigarh "B" Bench in I. T. A. No. 53/Chandi/2000 and Co. No. 9/Chandi/2004 dated December 24, 2007, for the assessment year 1997-98, proposing to raise the following questions of law:

(i) Whether the order of the Tribunal is perverse in upholding the addition on account of valuation of closing stock without appreciating the evidence in the form of comparative results of other mill owners and the sale bills of immediately succeeding year which evidence remains unrebutted?

(ii) Whether the Tribunal was justified in upholding the additions on account of valuation of closing stock without any finding of sales and purchase outside books of account?

2. The assessee derives income from running of rice mill. The return of the assessee was taken up in scrutiny and finding certain discrepancies, the Assessing Officer

made addition. The Commissioner of income tax (Appeals), however, deleted the addition. On further appeal by the Revenue, the view taken by the Assessing Officer was restored by reiterating the discrepancies which were noticed by the Assessing Officer. As regards yield, the Tribunal observed that proper records with regard to production and generation of final product were not maintained. The entries were made on estimated basis. The records maintained were, thus, not complete from which the correct income could be derived. The assessment of the yield by the Assessing Officer was found to be justified.

3. As regards undervaluation of closing stock of rice, it was held that the assessee was not justified in valuing the closing stock at average market price instead of market price on the date of the closing of the books. The last sale made in March was a good guide to ascertain the market value.

4. Learned counsel for the assessee submits that the books of account had not been rejected while making the assessment. This argument is against the finding of the Tribunal. The assessee has not raised any question of perversity except to say that the order of the Tribunal was perverse in not appreciating the evidence in the form of comparative results of other mill owners. That ground of perversity has not been substantiated. The Tribunal has categorically held that in the absence of proper and complete record, the Assessing Officer was justified in making assessment on the basis of available material. He was also justified in upholding the addition to the valuation of closing stock.

5. The findings of the Tribunal are findings of fact, based on appreciation of evidence and are not shown to be perverse.

6. No substantial question of law arises. The appeal is dismissed.