Cit Vs. Electra (India) Ltd

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Court : Allahabad

Decided On : Jan-21-2001

Reported in : [2002]120TAXMAN791(All)

Appeal No. : IT Application No. 5 of 1998 21 January 2001

Appellant : Cit

Respondent : Electra (India) Ltd

Advocate for Pet/Ap. : A.N. Mahajan, *for the Revenue* R.R. Agarwal, *for the Assessee.*

Judgement :
ORDER

This is an application under section 256(2) of the Income Tax Act, 1961 by the Commissioner praying that the Tribunal, Delhi Bench 'C', be directed to state a case and refer the following questions stated to be of law and to arise out of the Tribunal's order dated 24-6-1996 in cross appeals being IT Appeal Nos. 2885 and 3157 (Delhi) of 1991 for the assessment year 1984-85 for the opinion of this court :

'1. Whether the Tribunal was correct in law in holding that the account books of the assessee could not be rejected even if the assessee had not maintained any records for showing consumption of various raw materials and the consumption shown by the assessee was found to be highly excessive following the orders of the court on the reference applications filed by the department under section

256(2) of the Income Tax Act, 1961 for the assessment years 1975-76, 1976-77, 1977-78 and 1979-80 which have not become final ?

2. Whether the Tribunal was legally correct in deleting the addition of Rs. 20,618 made by the Inspecting Assistant Commissioner (Assessment) in view of the provisions of section 40A(5)(c) of the Income Tax Act, 196 1?

3. Whether the findings of the Tribunal are not perverse and unreasonable on the basis of facts and materials brought on record and discussed in the order of the Income Tax Officer?'

2. We have heard Shri A.N. Mahajan, the learned standing counsel for the Commissioner and Shri R.R. Agarwal, the learned counsel for the assessee.

We have also been taken through the order passed by the Commissioner (Appeals) and by the Tribunal. As regards question No. 2, Shri Mahajan informs that this question has already been referred to this court by the Tribunal under section 256(1). Therefore, the application in this regard is not maintainable.

3. As regards the other two questions, they relate to an addition of Rs. 9,02,450 made by the assessing officer on account of alleged excess/ short consumption of various raw materials. The excess and shortage was with reference to the specified quantities given in the approved drawing by the parties to whom the assessee supplies transformers. The Commissioner (Appeals) has given a chart at page 2 of his order which shows that the variations were of a minor nature. The Commissioner considered the matter in detail and held the addition to be unjustified and deleted the same. This has been affirmed by the Tribunal. Whether the addition was justified is a pure question of fact and it has been so held by this court in similar application for the assessment year 1982-83 being IT Appeal No. 241 of 1988 which was rejected by this court vide order dated 16-1-1989. In our opinion, no question of law arises from the order of the Tribunal. The application is rejected.