Echo Shella Vs. Cit-i

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SooperKanoon Citation : sooperkanoon.com/637127

Court : Punjab and Haryana

Decided On : Jul-24-2006

Reported in : [2007]293ITR234(P& H)

Judge : Adarsh Kumar Goel and; Rajesh Bindal, JJ.

Appellant : Echo Shella

Respondent : Cit-i

Advocate for Pet/Ap. : Mr. Mukhi

Disposition : Appeal dismissed

Judgement :
ORDER

1. The assessee has approached this court by filing the present appeal against the order of Income Tax Appellate Tribunal, Chandigarh Bench '13' ('the Tribunal') arising out of I.T.A. No. 6494/Chd./96 for the assessment year 1992-93, decided on 16-12-2004, by raising the following substantial questions of law:

(a) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified on facts and in law in confirming the action of Commissioner (Appeals) and in sustaining the addition of an illogical and unreasonable income of Rs. 1,28,960 without passing a speaking order and without considering various arguments, contentions and evidences produced

before the ITAT and, thus, the order of the ITAT is bad in law and illegal?

(b) Whether, on the facts and circumstances of the case, the findings of ITAT are perverse and against the arguments contentions and evidences on record thus unsustainable in law ?

2. While rejecting the contentions raised by the assessee, the Tribunal, while upholding the orders passed by the authorities below, recorded the following findings:

We have heard the rival submissions, perused the orders of the tax authorities and gone through the material available on record as well as the paper book filed by the assessee. In this case the difference in stowas found by the search party on the basis of rates intimated by one of the partners of the firm and though inventory was prepared on 10-1-1992 the rates were intimated on 17-1-1992, thus, there was sufficient time with the assessee to intimate the correct rates. Apart from this, it has also been noticed that no discrepancy in this regard was ever pointed out after 17-1-1992, i.e., date of communication of the rates to the assessing officer during the course of assessment proceedings. Therefore, the plea of the assessee that such rates were not confronted or exercise was without any merit. In our considered opinion, the Commissioner (Appeals) has rightly sustained the impugned addition by passing a well-reasoned and speaking order, which does not call for any interference at our hands. We uphold the same and reject the ground raised by the assessee.

3. At the very outset, we may record that the appeal was heard for some time on 20-2-2006 and after hearing learned counsel for the assessee, the following order was passed:

After some hearing, Mr. Mukhi, learned counsel for the appellant prays for some time to place on record the material which, according to the appellant, has not been taken into consideration by the Tribunal.

At request, adjourned to 24-7-2006.

4. The assessee has not placed on record any material which, according to him, has not been taken into consideration by the Tribunal.

5. The only submission made by the counsel for the appellant is that while confirming the impugned addition, the expenses on electricity labour, etc., have not been considered by the authorities below. A perusal of the orders of all the authorities below show that no such claim was made at any stage. Accordingly, the same cannot be permitted to be raised at this stage before this Court. It is quite evident that the rates at which the valuation was made, were supplied by the partner of the assessee-firm itself. So to state that there was error in the calculation is neither here nor there. Once the assessment of the valuation has been made as per the material supplied by the assessee himself, there is no question of challenging the same either on the ground that the same is incorrect or that the assessee was not given proper opportunity to explain the same.

6. Accordingly, we do not find any merit in this appeal and the same is dismissed.