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**Surajmal and Party Vs. Cit**

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**SooperKanoon Citation** : sooperkanoon.com/770656

**Court** : Rajasthan

**Decided On :** May-24-2003

**Reported in** : [2004]136TAXMAN1(Raj)

**Appeal No.** : D.B. Income Tax Appeal No. 110 of 2003 24 May 2003

**Appellant** : Surajmal and Party

**Respondent** : Cit

**Advocate for Pet/Ap.** : P.K. Kasliwal *for the Appellant*.

**Judgement** :
ORDER

In this appeal the following questions are raised which are stated to be the question of law:

'1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in confirming the disallowance of loss of Rs. 4,27,887 in IMFL and Beer account as made by the assessing officer, irrespective of the fact that books of account and trading results shown by the appellant were accepted and no defects were pointed out by the assessing officer in the books of account shown by the appellant ?

2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in confirming the disallowance of loss of Rs. 4,27,887 as made by the

assessing officer on the basis of comparable case and on the basis of estimation presumption and assumption irrespective of the fact that trading results shown by the appellant were not disbelieved

3. Whether loss shown by the appellant can be computed on the basis of comparable case of other assessee, irrespective of the fact that the assessing officer did not disbelieve the books of account and trading results shown by the appellant, such a conclusion can be sustained in the eye of law as sustained by the Tribunal, and such a conclusion is not perverse ?'

2. It is true that the book results are not specifically rejected but ITO has noticed that it is not possible to verify the expenses shown in the books. Even no justification has been shown for low G.P. in comparison to the G.Ps. shown in other similar business. Therefore, the assessing officer has reduced the loss to the tune of Rs. 4,27,887 and that has been upheld uptil Tribunal.

3. Learned counsel for the appellant submits that when book results are not rejected, the loss should not be reduced on the ground of comparable cases.

4. It is true that book results are not specifically rejected but some defects are found in the system of accounting and not only that, no justification has been shown for low G.P. in comparison to comparable cases. Neither the assessing officer nor the other authorities have properly appreciated the facts.

5. We, therefore, deem it proper to remit the matter back to the assessing officer to examine the books of account and see to it whether the entries made in books can be verified, whether he has genuine material in support of the entries. If assessee fails to submit the material in support of the entries, it will be open to the assessing officer to reject the books and estimate the G.P. after giving opportunity to the assessee and reconsider the rejection of loss in the year under consideration. If the entries in the books are found correct on the basis of material, the book results should be accepted.

6. The appeal stands disposed of at admission stage with the above directions.

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