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Court : Rajasthan

Decided On : Jun-29-2001

Reported in : (2002)73TTJ(NULL)874

Appeal No. : ITA No. 806/Jp/1994 29 June 2001 A.Y. 1991-92

Appellant : Suman Steels

Respondent : ito

Advocate for Pet/Ap. : Nauratan Mertia, *for the Assessee* G.R. Meghwal, *for the Revenue*

Judgement :

ORDER

S.R. Chauhan, J.M.

This appeal by assessee for assessment year 1991-92 is directed against the order of Commissioner (Appeal's), Jodhpur, dated 2-3-1994.

2. I have heard the arguments of both the sides and also perused the records.

3. The assessee-appellant has raised six grounds of appeal but ground Nos. 2 to 6 have not been pressed by the learned authorised representative of assessee during arguments so the same are dismissed accordingly.

4. Ground No. 1 disputes the addition of Rs. 37,926 made on account of undervaluation of closing stock. The learned authorised representative of assessee has contended that the assessee has valued the closing stock on cost though cost has been taken in three categories as per three categories of stock. He has contended that those part of the closing stock which represented the goods purchased recently that is in the period near the accounting year ending date, (in the month of March) was valued on actual purchase price on the basis of their purchase bills, (ii), that part of closing stock which represented goods purchased during the year from time-to-time and some were used and some remained in balance as unused and got mixed up, was valued as average cost, and (iii) that part of closing stock which represented goods remaining in balance out of opening balance of the year that is out of the stock/lying at the end of the proceeding year, the same were valued on the same rate at which they were valued in the preceding year's balance sheet. He has contended that this has been the practice of assessee all along and being followed consistently he has cited Investment Ltd. v. CIT : [1970]77ITR533(SC) , As against this the learned Departmental Representative of revenue has contended that the valuation of M.S. tubers and M.S. sections alone is in dispute. He has contended that the assessee has not maintained the stock register to show as to how much was purchased during the year, how much out of that was consumed and how much out of that remained in balance and that same position is regarding both the itemsthe M.S. tubes and M.S. sections. He has contended that similarly there is no record/evidence to show that in fact amount of the previous closing stock how much quantity was consumed during the current year and how much remained in balance. He has contended that due to absence of record the assessing officer has not accepted assessee's plea and valued on market price and made the addition. He has supported the orders of the authorities below.

5. I have considered the rival contentions, the material on record as also the cited decisions in : [1970]77ITR533(SC) (supra) the Hon'ble Supreme Court has held that a method of accounting adopted by trader consistently and regularly cannot be discarded by departmental authorities on the view that he should have adopted a different method of keeping account order of valuation. Considering the said decision I find substances in the learned authorised representative's contentions.

The submission of learned authorised representative of assessee has been that all the goods are lying in three separate heaps, each separate from other and so the quantity of each of the three categories of goods, forming part of closing stock is distinctly identifiable as also countable physically. In that view of the matter considering all the facts and circumstances of the case as also the above submission together with the facts that the assessee has been consistently/regularly following the same method for valuing the closing stock, and also considering the legal positions. I find no justification for not accepting the valuation of closing stock as made by assessee and making addition on account of undervaluation of the same, therefore, deleted the addition.

6. In the result this appeal of assessee is allowed in part as indicated above.

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