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Ratna Cafe Vs. the State of Madras

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Court : Chennai

Decided On : Jul-02-1973

Reported in : [1974]33STC39(Mad)

Judge : Ramanujam ;and V. Ramaswami, JJ.

Appeal No. : Tax Case No. 381 of 1969 (Revision No. 256 of 1969)

Appellant : Ratna Cafe

Respondent : The State of Madras

Advocate for Def. : K. Venkataswami, First Assistant Government Pleader (Tax)

Advocate for Pet/Ap. : C. Venkataraman, Adv. of C.S. Chandrasekhara Sastry, ;C. Venkataraman, ;C. Natarajan ;and D. Srinivasan, Advs.

Disposition : Petition allowed

Judgement :

Ramanujam, J.

1. The question that arises in this case is as to whether the estimate of the turnover is justified. The assessee, who is running a coffee hotel, reported a taxable turnover of Rs. 7,19,025.09 for the assessment year 1964-65. The assessing authority did not accept the correctness of the accounts and added 20

per cent to the book turnover and this resulted on a turnover of Rs. 1,43,814.64 being added to the reported turnover. There was an appeal to the Appellate Assistant Commissioner, but without success. On a further appeal to the Sales Tax Appellate Tribunal, the Tribunal found that the purchase account of the assessee is to be accepted as there is no reason to assume that any of the purchases has been suppressed. As regards the sales account, the Tribunal found that all the pay in-slips have not been preserved. It was, however, of the view that the issue of the pay-in-slips for amounts exceeding Rs. 3 alone is insisted by the rules, that the assessee is thus, under no obligation to issue sale bills for the amounts less than Rs. 3 and, therefore, the assessee cannot be found fault with for not producing or preserving the pay-in-slips for all the sales in the hotel. Thus, the Tribunal having held that the sales turnover cannot be verified with reference to the pay-in-slips, proceeded to estimate the assessee's sales turnover by adding 50 per cent to the purchase turnover of the assessee. The assessee questions the view taken by the Tribunal before us.

2. According to the learned counsel, the Tribunal having found that it is neither obligatory nor practicable to issue pay-in-slips for all transactions, it should have accepted the turnover as per the books without making any addition. It is also urged by the learned counsel that the only reason for making an addition by the Tribunal is that the gross profit rate of the assessee worked out to 39 per cent while the normal gross profit rate in hotel business is generally 50 per cent and that reason is not tenable.

3. The learned Government Pleader, however, contends that it should not be taken that the Tribunal has accepted the correctness of the book turnover and that a reading of the Tribunal's order would suggest that the correctness of the sales turnover had not been accepted. On a due consideration of the matter we find that the Tribunal has practically accepted the correctness of the accounts and there is no reason given as to why the sales turnover reported by the assessee on the basis of his account books should be rejected, except the reason that the gross profit is low. If the Tribunal has indicated any reason as to why the account books cannot be accepted, then the estimate of the taxable turnover made by the Tribunal cannot be taken exception to, as the normal gross profit rate can be taken

as one of the relevant considerations for estimating the actual sales turnover. But, in this case, the Tribunal has not found fault with the accounts of the assessee. The only ground on which the book turnover has not been accepted is that it shows a gross profit of 39 per cent as against the general gross profit rate of 50 per cent in this line of business. We find that the assessee in this case, for the immediately previous year, i, e., assessment year 1963-64, submitted the gross turnover as per the books, which showed a gross profit rate of 38 per cent. In that case, the Tribunal has specifically compared the said gross rate with the normal gross profit rate in this line of business and ultimately found that having regard to the reputation the assessee enjoys for supplying good and standard quality of tiffin in the hotel, the gross profit rate of 38 per cent cannot be taken to indicate that there was any suppression. The Tribunal, therefore, refused to sustain the estimate made by the authorities in that year unless there were serious defects pointing out purchases or sales suppressions and stated that the low gross profit margin alone cannot be taken to reject the accounts. In this year, the assessee's accounts have shown a gross profit rate of 39 per cent as against 38 per cent shown in the previous year. In addition, the assessee's taxable turnover is more by one lakh of rupees than the previous year. Having regard to the acceptance of the 38 per cent gross profit rate in the earlier year, we have no reason to say that the gross profit rate of 39 per cent shown this year indicates that the assessee had any suppressed turnover, either of purchases or of sales. Therefore, the addition made in this case cannot be sustained. The tax case is, therefore, allowed with costs. Counsel's fee Rs. 150.

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