**(2013) 01 RAJ CK 0059**

**In the Rajasthan High Court**

**Case No :** Income Tax Appeal No. 44 of 2012 & Income Tax Appeal No. 45 of 2012 & Income Tax Appeal No. 46 of 2012 & Income Tax Appeal No. 49 of 2012

CIT — APPELLANT

Vs

Dr. Suresn Sharma — RESPONDENT

**Date of Decision :** 14-01-2013

**Acts Referred:**

**Citation :** (2013) 01 RAJ CK 0059

**Hon'ble Judges :** Dinesh Maheshwari, J;Arun Bhansali, J

**Bench :** Division Bench

**Advocate :** K.K. Bissa, for the Appellant;

**Final Decision :** Dismissed

## Judgement

Arun Bhansali, J.—The present appeal u/s 260A of the Income Tax Act, 1961 [''the Act''] has been filed by the Revenue seeking to question the order dated 09.12.2011 passed by the Income Tax Appellate Tribunal, Jodhpur Bench, Jodhpur [''the Tribunal''] in ITA No. 652/JODH/08 and C.O. No. 28/JODH/2009 for the assessment year 2003-2004, whereby, the Tribunal has affirmed the order dated 17.09.2008 passed by the Commissioner of Income Tax (Appeals), Udaipur [''the CIT(A)''] partly allowing the appeal preferred by the assessee and deleting the additions of Rs. 2,04,301/-on account of unexplained purchase of medicine, Rs. 6,63,250/- on account of fees and Rs. 59,85,443/- as unaccounted expenditure as made by the Assessing Officer [''the AO''] in the assessment order dated 31.12.2007. Having heard the learned counsel for the appellant and having perused the material placed on record, we are clearly of the view that the present appeal essentially raises issues relating to appreciation of evidence resulting in finding on facts; and no substantial question of law is involved.

2. The facts of the case may be noted thus: The assessee runs a nursing home and also owns a marble cutting plant. The assessee filed his original return of income for the assessment year 2003-2004 on 06.05.2004 declaring total

income of Rs. 62,350/-. The assessment was completed u/s 143(3) of the Act. It appears that thereafter, a survey u/s 133A of the Act was undertaken at the business premises of the assessee and on the basis of material found during the course of survey, a notice u/s 148 of the Act was issued relating to assessment years 2002-2003 and 2003-2004 and assessments were completed u/s 143(3) /148 of the Act. The AO, inter alia, made the additions, three of which were deleted by the CIT(A) as noticed hereinbefore. The appeals arising out of assessment years 2002-2003 to 2006-2007 filed by revenue were decided by the Tribunal by a common order.

3. For the assessment year 2003-2004 the Tribunal has observed as under:-

The department has taken the following grounds in the appeal:-

(i) Deleting the addition of Rs. 204310 made by the Assessing Officer on account of unaccounted purchase of medicine.

(ii) Deleting the addition of Rs. 663250 made by the AO on account of fees.

(iii) Deleting the addition of Rs. 5985443 made by the AO on account of unexplained factory and hospital expenditure.

All the three issues above are exactly the same as the three issues dealt by us in appeal no. 659/Jodh/08 for A.Y. 2002-03. The assessing officer has given the similar finding for making the additions and CIT(A) has given the similar findings for deleting the additions in this year also. Both the ld. DR and ld. AR agreed that facts of the case are similar to assessment year 2002-03 and therefore, following the order passed above in appeal no. 659/Jodh/08, we dismiss all the three grounds of appeal of the department.

4. This Court while considering the appeal filed by the Revenue for the assessment year 2002-2003 being D.B. Income Tax Appeal No. 47/2012 (CIT, Udaipur Vs. Dr. Suresh Sharma) has held as under:-

In our view, the submissions do not make out any substantial question of law for consideration by this Court in this appeal. The grounds as urged and the questions as suggested essentially relate to the matters of appreciation of evidence for factual enquiry and rendering findings on facts about the expenditure on purchase of medicines, receipt of consultation fees and expenditure at factory and hospital. Though the AO made the additions with reference to his opinion on the material found and impounded during the course of survey proceedings, however, the CIT(A) disagreed with the findings of the AO after thoroughly analyzing the material on record and after referring to the inconsistencies in the assessment order on accounting aspects and the fact that the trading additions had already been made in the original assessment. Thereafter, the Tribunal found no reason to interfere while scrutinizing the findings recorded by the CIT(A) on relevant considerations.

In an overall view of the matter, we are satisfied that the findings on facts have been rendered by the two appellate authorities in accordance with law; and the orders impugned do not suffer from any perversity or wrong application of any principle of law so as to raise any substantial question of law.

Consequently and in view of the above, the appeal fails and the same is, therefore, dismissed summarily.

The reasons foregoing, on all the relevant and material aspects, equally apply to the present appeal too, which is based on self-same grounds. Thus, following the decision aforesaid and in the same terms, this appeal also stands dismissed summarily.