(2013) 04 RAJ CK 0009

In the Rajasthan High Court

Case No : IT Appeal No. 251 of 2011

CIT APPELLANT

Vs

Satya Narain Maheshwari RESPONDENT

Date of Decision : 10-04-2013

Acts Referred:

Citation : (2013) 04 RAJ CK 0009

Hon'ble Judges : Veerendr Singh Siradhana, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : Parinitoo Jain, for the Respondent

Judgement

1. Instant appeal has been filed by the Revenue u/s 260A of the Income Tax Act against the order dt. 19-3-2010 passed by the Tribunal, Jaipur Bench upholding deletion regarding additions made u/s 69B of the Income Tax Act.

2. The return of income was filed by the assessee on 18-10-2006. The case was selected for scrutiny as per clause 2(r) of the norms prescribed in the Action Plan for financial year 2006-07 for non'' corporate assessee. However, u/s 143(3) in the course of assessment proceedings, assessing officer obtained the stock assessment for the period ending 31-3-2006 submitted by the assessee to the Punjab National Bank, Bundi and after comparison with the stock as reflected in the balance sheet as on 31-3-2006 noticed difference between the closing stock shown in the balance sheet and the stock submitted to the bank and being not satisfied with the explanation submitted by the assessee regarding closing stock price and observed that stock of rice shown in the stock statement given to the bank was taken as stock with the assessee as on 31-3-2006 as against shown by the assessee in the balance sheet and consequently difference of the two was held to be not recorded in the books of account by the assessee and investment therein has been made out of his undisclosed income and accordingly difference of the two was added in the total income of the assessee u/s 69B of the Income Tax Act, 1961.

3. It was challenged by the assessee in appeal before the Commissioner (Appeals) and claimed that he is maintaining records to justify its stock and the assessing officer accepted all the books of accounts and has not found any defect in the books and as there was no mistake in taking the stock which was reflected as on 31-3-2006. His further explanation was that the assessee has taken credit facility in the form of working capital limit from the bank and the periodical stock statement was submitted to the bank as required and this being hypothecation limit and based on the stock available with the bank, the bank is allowing the credit facility after having certain margin and the stock statement given to the bank mentioning the quantity of paddy and rice Basmati and this stock statement was prepared before booking the sale for the rice lying with the other parties (called or sale) and this being a system of nature of trade of sending goods to some parties (agents). The goods are in their go down and which they sale periodically and the assessee gets advances from them and when they get sale details (sale Patti), the sale is booked and the stock is accordingly reduced and apart from practice being followed it was claimed that during the financial year, quantity of rice stock was lying with M/s. Rajendra Kumar Mohan Lal & Co., Pune as on 31-3-2006 in the stock statement which was given to the bank, therefore, that stock included the stock lying with that party but before audit and after 31st March when the assessee received the sale Patti from that party and the amount which was shown as stock was booked in the sale and the stock was reduced accordingly and the practice followed by the assessee was supported and approved by certain High Courts of which reference has been made by the Commissioner (Appeals) and taking note thereof, the Commissioner (Appeals) in its detailed judgment observed that the process of writing accounts and preparing balance sheet and P & L a/c therefrom is an elaborate and rigorous process and such books of accounts are liable to inspection by sales-tax and VAT systems and there are different levels of scrutiny to ensure correctness and completeness of the books of accounts. As against this, the process of stock taking for the purpose of hypothecation of stock with the bank is a relatively loose process and the bank very broadly aims at mitigating its risk by ensuring that sufficient securities are available, including stock-in-trade and without any evidence to the contrary, the balance sheet and P & L a/c have to be relied upon rather than the statement of stock submitted to the bank for hypothecation purpose and there was nothing on record and no finding was brought on record which could establish the existence of excess physical stock of rice which could corroborate the statement of stock given to the bank and after recording its full satisfaction accepted the explanation furnished by the assessee and held that the addition made by the assessing officer treating it as unexplained and undisclosed investment in stocks u/s 69B of the Income Tax Act deserves deletion and against which the Revenue came before the Tribunal and the grievance raised by the Revenue was that the Commissioner (Appeals) has erred in deleting the addition made by the assessing officer on account of unexplained/undisclosed stock u/s 69B of the Act.

4. The Tribunal also after taking into consideration the factual matrix and so also the explanation which was extended by the assessee before the authority observed that the addition which was made by the assessing officer u/s 69B has been made only for the reason that there was difference in the stock of rice and in the statement furnished to the bank as disclosed in the balance sheet and the said difference was essentially due to the consignment sale and sale Patti was not received till furnishing the statement to the bank and at the same time, it was included in the stock lying at the godown of M/s. Rajendra Kumar Mohan Lal & Co., Pune which was sold on the last day of the accounting year and the assessee received the sale Patti in the succeeding month i.e., in the month of April, 2006 and accordingly there was no addition which was called for u/s 69B of the Act as it was not a case of suppression of stock and finally affirmed the order of the learned Commissioner (Appeals) and held that it has rightly deleted the addition made by the assessing officer.

5. As regard other grounds, no submission was made before us and the appeal confined only to the addition which was initially made by the assessing officer u/s 69B of the Act.

6. Counsel for appellant has vehemently urged before us and submitted that the addition which was made by the assessing officer u/s 69B of the Act was well reasoned duly supported with the evidence on record but that was not properly appreciated either by the Commissioner (Appeals) or the Tribunal and this requires consideration by this Court as to how far the Tribunal was justified in deleting the addition made by the assessing officer u/s 69B of the Act on account of unexplained/undisclosed stock of rice.

7. After hearing counsel for appellant and perusal of orders of Commissioner (Appeals) and Tribunal, in our view what is being urged is misconception of law and fact and the explanation furnished by the assessee regarding discrepancy which shown in the stock statement given to the bank and the stock given in the account of firm was well explained and the addition made by the assessing officer u/s 69B of the Act was not considered to be acceptable in the facts of the instant case by both the authorities.

8. In our considered view what is being urged is a mixed question of law and facts based on documentary evidence supported with explanation furnished by the assessee, accepted by the Commissioner (Appeals) and affirmed by the Tribunal and we do not find any substantial question of law emerges in the instant appeal which requires to be examined by this Court.

9. Consequently, the appeal fails being devoid of merit and is accordingly dismissed.