(2010) 11 RAJ CK 0030

In the Rajasthan High Court

Case No : IT Appeal No. 161 of 2010

CIT APPELLANT

Vs

Singhal Natural Stone (P) Ltd. RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Income Tax Act, 1961 — Section 145(3), 145A

Citation : (2011) 243 CTR 414

Hon'ble Judges : Arun Kumar Mishra, Acting C.J.;Mohammad Rafiq, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This income tax appeal has been preferred by revenue against common order of Income Tax Appellate Tribunal, Jaipur Bench A, Jaipur (for short, Tribunal) dated 30-10-2009, whereby appeal filed by revenue as also cross-objections filed by Assessee, both were dismissed and order of Commissioner of Income Tax (Appeals)-II, Jaipur (for short, CIT (A)) dated 13-3-2009, was upheld.

2. Factual matrix of case is that Assessee company was formed by conversion of erstwhile concern M/s Singhal Granites. It was engaged in cutting and processing of marble block into slabs and tiles. Assessing Officer noticed that Assessee had valued stock of marble blocks @ Rs. 1,240.80 per metric ton as against average cost of purchases amounting to Rs. 1,343.40 per metric ton. He further noticed that only 50 per cent stock of marble slabs and marble tiles was considered to be fresh and balance 50 per cent was considered to be of inferior quality without any basis. Stock that was considered to be of inferior quality was valued at 25 per cent rate of value applied for fresh stock. This, according to assessing officer, was without any basis. Therefore, by rejecting books of account u/s 145(3), stock of marble blocks, slabs and tiles was valued at average cost incurred by Assessee and thereby addition of Rs. 20,78,821 was made on this account. Aggrieved thereby, Assessee preferred appeal before CIT (A), who reduced addition to Rs. 5,15,259 , and allowed relief of Rs. 15,63,567. Aggrieved thereby,

the revenue preferred appeal before Tribunal and Assessee filed cross-objections, both of which were dismissed by the Tribunal vide impugned order.

3. Shri R.B. Mathur, learned Counsel for revenue, argued that Tribunal itself agreed that there was no basis for considering 50 per cent of stock to be of inferior quality as well as valuing it at 25 per cent average rate of value applied for fresh stock. He could not have therefore upheld judgment of CIT (A). Learned Counsel referred to observations made by assessing officer in its order and argued that books of accounts were rightly rejected by assessing officer by giving cogent reasons. It was argued that Section 145A of Income Tax Act prescribes that valuation of purchase and sale of goods and inventory for the purpose of determining income chargeable under the head Profits and gains of business or profession shall be in accordance with method of accounting regularly maintained by the Assessee. Since this was the first year of Assessee, it being a new company, no opening stock was there. The stock of erstwhile concern M/s Singhal Granites was transferred at book value on 31st July, 2005. Since M/s Singhal Granites had also followed the same method of valuation of the stock as on 31st March, 2005, that is cost or market price whichever is lower, inferior quality goods, if any contained in that stock had already been valued at lower reasonable price as on 31st March, 2005. Their pricing therefore could not be further reduced. Learned Counsel therefore argued that a substantial question of law arises whether the Tribunal was justified in law in confirming decision of CIT (A) in reducing addition made by the assessing officer on account of undervaluation of closing stock by Rs. 15,63,562 without any basis.

4. Having heard learned Counsel for revenue and perusing impugned orders, we find that learned CIT (A) has given cogent and valid reasons for reducing additions from Rs. 20,78,821 to Rs. 5,15,259 by observing that FIFO method of valuation can be followed only when items purchased/ manufactured are identical in nature while in the case of Assessee there is sizable difference in the valuation for block to block, slab to slab and tiles to tiles. Moreover, whatever valuation method is adopted, it has to be followed consistently and since it is the first year of the Assessee-company and accounting method followed has been mentioned in the notes of accounts, therefore, there is no justification in disturbing said method of accounting as followed by the Assessee. On fact, learned CIT (A) was of the view that entire stock could not be sold at same price and obviously at the time of sale when the buyer picks up the best available stock then the Assessee is entitled to value part of the stock at reduced price particularly when it has also proved that the same was sold in immediately succeeding period at a lesser rate fixed from best of the stock. This finding recorded by learned CIT (A) has been upheld by learned Tribunal. These findings, however, in our view are essentially findings of fact based on appreciation of material on record and do not raise any question of law, much less a substantial question of law so as to justify entertainment of present appeal.

5. This appeal, being devoid of merit is therefore dismissed.