(2006) 10 MAD CK 0137

In the Madras High Court

Case No : Tax Case (Appeal) No. 4 of 2004

Commissioner of Income Tax APPELLANT

Vs

Apcom Computers (P) Ltd. RESPONDENT

Date of Decision : 17-10-2006

Acts Referred:
Income Tax Act, 1961 — Section 143(1), 143(2), 143(3), 260A

Citation : (2007) 292 ITR 630

Hon'ble Judges : R. Balasubramanian, J;P.P.S. Janarthana Raja, J

Bench : Division Bench

Advocate : J. Naresh Kumar, for the Appellant; V.D. Gopal, for the Respondent

Final Decision : Dismissed

Judgement

P.P.S. Janarthana Raja, J.—The present appeal is filed u/s 260A of the Income Tax Act, 1961 by the revenue, in I.T.A. No. 2693/Mds/94

against the order passed by the Income Tax Appellate Tribunal, Madras, ''C'' Bench for the assessment year 1991-92. When the matter came up

for hearing on 19.1.2004, this Court admitted the case formulating the following substantial questions of law.

(1) Whether in the facts and circumstances of the case, the Tribunal was right in deleting the addition made to the closing stock, in respect of the

difference between value of the stock reported to the bank and the income tax return?

(2) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the value of stock as reported by the assessee to its

bank cannot be added to the value of the closing stock?

(3) Whether in the facts and circumstances of the case, the Tribunal was right in holding that the assessee can adopt one stock value for the bank

purpose and other for the income tax purpose.

2. The brief facts leading to the above questions of law are as under:

The assessee is a Private Limited Company. The assessee derives income from manufacture of tape back up units for personal computers and

computers. The relevant assessment year 1991-92 and the corresponding accounting year ended on 31.3.1991. The assessee filed Return of

income on 19.12.1991 disclosing a total income of Rs. 11,62,170/-. Later Return was processed u/s 143(1)(a) of the Income Tax Act (hereinafter

referred to as the ""Act"") determining the total income at Rs. 16,29,408/-. Subsequently, notice u/s 143(2) of the Act, was issued. The Assessing

Officer completed the assessment u/s 143(3) and determined the total income at Rs. 16,46,620/-. While completing the assessment, the Assessing

Officer made an addition to the closing stock at Rs. 6,16,950/- being the difference in value of the stock disclosed to the bank and disclosed in the

accounts for the purpose of Income Tax Assessment. Aggrieved by the order, the assessee filed an appeal before the Commissioner of Income

Tax (Appeals). The Commissioner of Income Tax (Appeals) allowed the appeal and set aside the order of the Assessing Officer. Aggrieved by

that order, the Revenue filed an appeal to the Income Tax Appellate Tribunal (hereinafter referred to as the ""Tribunal""). The Tribunal dismissed the

appeal filed by the Revenue and confirmed the order of the C.I.T.(A).

3. Learned Standing Counsel appearing for the Revenue, submitted that the assessee had, in order to obtain higher loan facilities, inflated its stock

figure in the statement given to the bank and hence the statement should be accepted. Hence the Assessing Officer is right in adding the difference

between the two figures to the total income of the assessee.

4. Learned Counsel appearing for the assessee submitted that for the purpose of bank loan, stock statement was given on estimate basis. The

assessee maintained day to day accounts on production and the declared closing stock for assessment purpose, was based on actual physical

verification. Hence, the estimated value of the stock given to the bank cannot be taken as the correct value of stock.

5. Heard the counsel. Any addition on account of difference in stock can be made only on adequate materials, but not arbitrarily. Admittedly, there

was a difference between the value of closing stock declared to the bank and to the Income Tax authorities. There is no dispute that the assessee

was maintaining books of account on day to day production. The assessee, in the present case, has taken the actual physical stock for the purpose

of declaring closing stock to the Income Tax authorities. Further the purchases and sales were supported by vouchers and the Assessing Officer

had not pointed out any suppression of sales or purchases. There was a finding by the authorities below that the statement given to the bank was

on estimate basis without any actual physical verification and the same was not supported by books of account. We find there is evidence to show

that stock declared to the Income Tax Department was supported by books of account. No detailed inventory was also available in the statement

made to the bank. Except a mere value declared for overdraft purposes to the bank, there were no detailed items of stocks in support of the

declared value. It was also pointed out that there was no physical verification of stock, either by the assessee or the bank at the time of furnishing

the stock statement. The Tribunal as well as C.I.T.(A) given a concurrent finding that the assessee declared closing stock for assessment purpose

which is based on actual physical verification. There is enough materials available on record and the conclusion reached by the Tribunal is based on

valid materials and evidence. In view of the same, there is no basis to treat the difference in value as the assessee''s under-valuation of stock or

undisclosed income. The Tribunal also rightly followed the principles enunciated by this Court judgment reported in Commissioner of Income Tax

Vs. Sri Padmavathi Cotton Mills., .

6. In view of the foregoing reasons, we are of the view that there is no error or legal infirmity in the order of the Tribunal so as to warrant

interference. Hence, we answer the questions of law in favour of the assessee and against the Revenue and the tax case is dismissed. No costs.

