
(2001) 07 RAJ CK 0026

In the Rajasthan High Court

Case No : IT Appeal No. 11 of 2001 11 July 2001 & Income Tax Appeal No. 11 of 2001

Commissioner of Income Tax

APPELLANT

Vs

Saddruddin Hussain

RESPONDENT

Date of Decision : 11-07-2001

Acts Referred:

Income Tax Act, 1961 — Section 145, 145(2), 260A

Citation : (2003) 263 ITR 677

Hon'ble Judges : A.R. Lakshmanan, C.J.; Bhagwati Prasad, J

Bench : Division Bench

Advocate : Sundeep Bhandawat, for the Appellant;

Final Decision : Dismissed

Judgement

Ar. Lakshmanan C. J.

1. Heard Shri Sundeep Bhandawat for the appellant.
2. This appeal u/s 260A of the Income Tax Act, 1961, has been filed to set aside the decision of the Tribunal and restore the order of the assessing authority.
3. The assessee is a wine contractor. During the course of assessment proceedings, the assessee had produced cash book, ledger, purchase vouchers, sale register, etc. The Assessing Officer had invoked the provisions of Section 145(2) of the Act since the assessee had not produced the sale vouchers and made trading addition of Rs. 4,13,077 in the country liquor business by applying the net profit rate of 25 per cent. on total outgoings of Rs. 2,06,83,435 determining the net profit at Rs. 51,70,859 as against Rs. 47,57,782 shown by the assessee. A similar order was passed in IMFL business also. The assessee preferred an appeal before the Commissioner of Income Tax (Appeals), who by order dated March 25, 1999, had allowed the appeal while confirming the order of the Assessing Officer. Both the assessee as well as the Revenue preferred an appeal before the Tribunal being aggrieved by the order of the Commissioner of

Income Tax (Appeals). The Tribunal vide its present order dismissed the Revenue's appeal and partly allowed the assessee's appeal and reduced the total additions of Rs. 24,13,077 to Rs. 2 lakhs and observed that in the assessee's own case, in the immediate preceding year there was a total addition of Rs. 1,50,000. The Department aggrieved by this order, preferred the present appeal.

4. Shri Sundeep Bhandawat, learned counsel for the Department, submits that the Tribunal has erred in law in not appreciating the fact that the additions of the disallowances were made by the Assessing Officer because the assessee had not issued sale vouchers and its sales were not verifiable. He further submitted that expenses were also not supported by authentic vouchers and due to these defects, the Assessing Officer had invoked the provisions of Section 145(2) of the Act.

5. This contention, in our opinion, has no merit. The Tribunal had appreciated the rival claims of both parties and accepted the claim of the assessee and reduced the addition to Rs. 2 lakhs. The Tribunal has reached this conclusion after considering all relevant facts. The Tribunal, in our opinion, was justified in reducing the amount to Rs. 2 lakhs. With the result, the appeal filed by the Revenue was dismissed.

6. In our view, no substantial question of law is involved in this appeal.

Accordingly, this appeal fails and is dismissed.