(2008) 09 GUJ CK 0089

In the Gujarat High Court

Case No : Tax Appeal No. 654 of 2008

Commissioner of Income Tax-I APPELLANT

Vs

Micro Melt (P.) Ltd. RESPONDENT

Date of Decision : 17-09-2008

Acts Referred:
Income Tax Act, 1961 — Section 68

Citation : (2010) 327 ITR 70 : (2009) 177 TAXMAN 35

Hon'ble Judges : D.A. Mehta, J;Bankim N. Mehta, J

Bench : Division Bench

Advocate : Mauna M. Bhatt, for the Appellant;

Final Decision : Dismissed

Judgement

B.N. Mehta, J.—The appellant-revenue has proposed the following question:

Whether the Appellate Tribunal is right in law and on facts in confirming the order passed by CIT(A) in deleting the addition of Rs. 8,33,500 made u/s 68 of the Income Tax Act as explained cash credits?

2. Heard learned Standing Counsel for the appellant. She has reiterated the reasons which prompted the Assessing Officer to make addition of Rs. 8,33,500.

3. Admittedly, for assessment year 1996-97 the Assessing Officer made an addition of Rs. 8,33,500 u/s 68 of the Income Tax Act, 1961 (''the Act'')- The assessee carried the matter in Appeal before Commissioner (Appeals) and succeeded. When revenue filed Appeal before the Tribunal the addition was deleted by recording following findings:

Section 7. We have heard the rival submissions, perused the orders of lower authorities and the materials available on record. We find that the Assessing Officer has treated the cash credits from 9 depositors totalling to Rs. 8,33,500 as not genuine and has made the addition of the same to the income of the assessee u/s 68 of the Act. We find that the assessee has filed evidences before the CIT(A) in the form of affidavits of the depositors, their bank statements and has also stated that the Assessing Officer has rejected the same based on minor mistakes in respect of mode of payment and holding that the party was not having enough source. We find that the ld. CIT(A) has observed that the Assessing Officer has not contradicted the amount paid by the depositors which were genuinely transferred from the bank accounts to the assessee. The parties have submitted the evidences to prove the cash credits. The Assessing Officer has accepted the genuineness of the persons and the transactions. The transactions are through banking channel. The ld. CIT(A) has further observed that 4 creditors residing at America could not appear before him but their affidavits were filed except for non-appearance of the creditors, the Assessing Officer has not doubted the genuineness of the transaction, creditworthiness of the depositors etc., the ld. CIT(A) has deleted the addition made on the ground that the parties are genuine and the creditworthiness has been proved beyond doubt and the transactions are through banking channels. The Id. DR could not controvert the findings of the ld. CIT(A) by bringing any relevant, cogent and positive material on record. In these circumstances, we are of the considered opinion that there are no good and justifiable reasons to interfere with the order of the CIT(A). It is confirmed and the ground of appeal of revenue is dismissed.

4. Thus, it is apparent that the genuineness of the transactions and the identity of the depositors have been established and nothing has been brought on record to contradict the findings of fact recorded by Commissioner (Appeals) as noted by the Tribunal. In the circumstances, the issue being a pure issue of facts and the appreciation of evidence, no question of law, much less a substantial question of law, as proposed or otherwise, arises out of the impugned order of the Tribunal.

5. Hence, the Appeal is dismissed.

