(2003) 05 RAJ CK 0123

In the Rajasthan High Court

Case No : IT Appeal No. 80 of 2003 26 May 2003

Shri Girraj Industries APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 26-05-2003

Acts Referred:

Citation : (2003) 132 TAXMAN 604

Hon'ble Judges : Y.R. Meena, J;Shashi Kant Sharma, J

Bench : Full Bench

Advocate : A. Kasliwal, for the Appellant;

Judgement

The following questions are raised in this appeal stated to be questions of law, which does arise out of the impugned order of Tribunal :

"Whether the Income Tax Appellate Tribunal was justified in having restored an addition of Rs. 1,00,000 on account of undisclosed stocks, etc., on a purely ad hoc basis without assigning any rhyme, reason or basis for the same ?

Whether the Income Tax Appellate Tribunal was justified in having interfered with the order of Commissioner (Appeals) dated 25-7-2002 without pointing out any material error whatsoever ?

Whether the order dated 29-1-2003 of the Income Tax Appellate Tribunal suffers from arbitrariness inasmuch as it has restored any addition of Rs. 1 lakh without showing at all as to how that figure has been worked out ?

Whether the order dated 29-1-2003 of the Income Tax Appellate Tribunal suffers from perversity ?"

2. Heard learned counsel for the appellant.

3. The basic issue in these questions is whether the addition of Rs. 1 lakh can be sustained on account of excess stock found during search.

4. During search 12 tanks raw material was found in excess. No stock register

was submitted during the search. Thereafter during the course of assessment, assessee has submitted a stock register explaining the difference in the excise register and stock register due to the excess raw material found, which was in the process of manufacturing. As no such stock register was produced during search, the assessing officer added the value of stock, which comes to Rs. 2,35,953. CIT has deleted this amount accepting the figures given in the stock register.

5. In appeal before the Tribunal, Tribunal has reduced the addition to Rs. 1 lakh made on account of excess stock found during search.

6. Whether there should be addition on account of excess stock found during search or not is basically a question of fact specially when no stock register was produced during search when the question was put for this excess raw material, which was found, how this excess stock is available with the assessee. It was only the excise register, which was produced and in that there was no reference of such raw material, which was in the process of manufacturing because in excise register, such type of raw material cannot be shown.

7. Considering the fact that issue involved is basically a question of fact and admittedly the stock in excess was found and it was not explained at the time of search and as the Tribunal has already given substantial relief by reducing the addition of Rs. 2,35,953 to Rs. 1 lakh, no case is made out for admission.

8. The appeal stands dismissed at admission stage.

