(2011) 07 AHC CK 0323

In the Allahabad High Court

Case No : Trade Tax Revision No. 137 of 2002

Steel Fabricators APPELLANT

Vs

Commissioner of Trade Tax RESPONDENT

Date of Decision : 14-07-2011

Acts Referred:
Uttar Pradesh Trade Tax Act, 1948 — Section 11

Citation : (2013) 58 VST 421

Hon'ble Judges : Satish Chandra, J

Bench : Single Bench

Advocate : Pradeep Agarwal, for the Appellant;

Judgement

Satish Chandra, J.—The present revision has been filed by the assessee u/s 11 of the U.P. Trade Tax Act, 1948 against the order dated June 20, 2002 passed by the Trade Tax Tribunal, Lucknow, in Appeal Nos. 207 and 318 of 1998 for the assessment year 1994-95. The brief facts of the case are that the assessee is engaged in the manufacturing of goods for supply mainly to the Government and semi-Government organizations. However, the assessee is also selling the goods to outsider specially fabricated steel doors and windows. A survey was conducted at the business premises of the assessee on February 17, 1995, where proper books of accounts were not found. So, the assessing officer has rejected the books of accounts and made the addition on estimate basis. Being aggrieved, the assessee has filed the first appeal, where partial relief of Rs. 80,000 was given to the assessee. Not being satisfied, the assessee has filed the second appeal before the Tribunal, who vide its impugned order has dismissed the appeal filed by the assessee. Still being aggrieved, the assessee has knocked the door of this court by filing the present revision.

2. With this background, Sri Pradeep Agarwal, learned counsel for the revisionist, submits that as per the circular dated September 30, 1991, the small traders were exempted from maintaining a register pertaining to the raw materials. However, it was mandatory to maintain the register pertaining to the finished

goods. He also submits that the assessee was properly maintaining the books of accounts, which were accepted up to the assessment year 1993-94. During the survey, certain documents were seized, which were explained to the assessing authority. The godown of the assessee is situated about 12 kilometres away from the principal place of business at 31, G.B. Marg, Lucknow, where no survey was conducted and the survey was conducted at the godown. The assessing authority has rejected the books of accounts which were maintained as per the past practice. He further submits that any specific method for maintaining the books of accounts has neither provided in the Act nor in the Rules. The rule 72 of the U.P. Trade Tax Rules provides that the assessee shall maintain a true and correct accounts of all his purchases, sales and stocks showing the quantity and value for verification of the accuracy of this turnover of sale and purchase. He further submits that the turnover of the assessee was less than Rs. 50 lacs. So, the partial addition sustained by the first appellate authority is against the law. Lastly, he made a request to set aside the impugned order passed by the Tribunal.

3. On the other hand, the learned standing counsel for the Department has relied on the impugned order.

4. Heard both the parties at length and gone through the material available on record.

5. From the record, it appears that as per the circular dated September 30, 1991, it was mentioned that the assessee having the turnover less than Rs. 50 lacs will only maintain the register pertaining to the finished goods. The assessing officer in its order mentioned that the stock register of finished goods was neither produced before him nor before the survey team. He specifically mentioned that since no proper books of accounts were filed, so, the books of accounts were rejected and the assessing officer made the addition on estimate basis. The first appellate authority has partially reduced the addition on estimate basis, which was upheld by the Tribunal. When no stock register of finished goods was produced at any stage then only recourse is left to make addition on estimate basis and the same was done in the present case. In the facts and circumstances, addition made/partly deleted on estimated basis appears reasonable.

6. Needless to mention that estimation is a question of fact as per the ratio laid down in a catena of judgments including:

(1) New Plaza Restaurant Vs. Income Tax Officer, .

(2) Sanjay Oilcake Industries Vs. Commissioner of Income Tax, .

7. In view of well-settled legal position, it is clear that no substantial question of law is emerging from the impugned order. Hence, no interference is required in the impugned order which is hereby sustained along with the reasons mentioned therein. In the result, the revision filed by the assessee has no merit and the

same is accordingly dismissed.

