

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH; AMRITSAR.**

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER
AND SH. N. K. CHOUDHRY, JUDICIAL MEMBER

I.T.A. No. 636/(Asr)/2016

Assessment Year: 2012-13

Qazi Nazir Ahmad,
10, Jeelanabad,
Peerbagh, Srinagar.
[PAN: AASPA 5283H]

(Appellant)

Vs. Income Tax Officer
Ward-3 (2), Srinagar.

(Respondent)

Appellant by : Sh. M. A. Mir (Cost Accountant)

Respondent by: Sh. Rajeev K. Gubgotra (D.R.)

Date of Hearing: 19.03.2018

Date of Pronouncement: 27.03.2018

ORDER

Per Sanjay Arora, AM:

This is an Appeal by the Assessee agitating the confirmation of his assessment u/s. 143(3) of the Income Tax Act, 1961 ('the Act' hereinafter) dated 11.03.2015 for Assessment Year (AY) 2012-13 by the Commissioner of Income Tax (Appeals), Jammu ('CIT(A)', for short) vide his order u/s. 250(6) dated 20.07.2016.

2. The appeal raises two issues per its two Grounds, of which the second (Ground 2) was not pressed by the Id. Authorized Representative (AR), the assessee's counsel, during hearing, making an endorsement to that effect on the appeal memo itself. The same (Ground 2) is accordingly dismissed as not pressed.

3. The only surviving issue is thus in respect of Ground 1, i.e., an addition for unexplained stock of Rs.61.37 lacs. The assessee-individual was during the course of assessment proceedings found to have disclosed, per his operating statement (trading, profit and loss account), an opening stock of Rs.62,24,270, as against a closing stock of Rs.87,757 as at the end of the immediately preceding year. That is, had disclosed an excess stock of Rs.61,36,513 without his accounts exhibiting the source thereof. The assessee's explanation was that this was so as the said stock, being of Gunny bags, was taken directly to the balance sheet as on 31.03.2011 (PB pg. 55), so that the stock to that extent already obtained in his account, as on 31.03.2011, and there was no additional stock reported as on 01.04.2011. Further, this was so done as there was no purchase and sale of Gunny bags during that year (f.y. 2010-11), furnishing along with the trading and profit and loss account of the Bags Division exhibiting this (PB pg. 54), as well as the balance-sheet (as on 31.03.2011) of the said Division reflecting the said stock (PB pg. 56). The same, however, did not find favour with the Revenue, which regarded the said explanation to be an afterthought. The assessee had 'clearly' purchased stock outside books, and which was sought to be introduced in books of account by way of opening stock. The addition having been confirmed thus in first appeal, the assessee is in second appeal.

4. We have heard the parties, and perused the material on record.

The addition, in our considered view, and even as expressed by the Bench during hearing, is wholly misplaced, and arises due to the non-appreciation of, or, rather, the non-willingness to appreciate, the facts of the case. Though we may hasten to add that the assessee himself is to a large extent responsible for the same in-as-much as he did not produce his account books during the assessment proceedings or even at the first appellate stage. Any doubt or query that obtained in

the matter could be resolved with reference thereto in-as-much as the assessee's case *qua* the nature and source of the stock of Rs.61.37 lacs with him as on 01.04.2011, is that the same is of Gunny bags, available with him and, further, finds reflection in his audited accounts, as on 31.03.2011.

The assessee has three business, viz. (trading in) Kashmiri handicrafts; Gas agency; and (trading in) Gunny bags. When there is no purchase and sale of any trading item during a year (period), non-reflection of its stock as at the beginning and the end of the year (period), i.e., by way of opening and closing stock respectively, in the operating statement, would not impact the trading profit or loss for the year (account period) at all - the opening and closing stock (at the same value), being on the debit and credit side respectively of the trading account (operating statement), cancelling each other.

The Id. AR was during hearing required by the Bench to exhibit the stock (of Gunny bags) with the assessee as on 31.03.2011 with reference to the audited final accounts (for f.y. 2010-11), and which he did. The trading, profit and loss account as well as the balance-sheet - both unit-wise and consolidated, both for f.y. 2010-11 and f.y. 2011-12 (corresponding to AYs. 2011-12 and 2012-13 respectively), were matched by us for internal consistency, and found to be so. In fact, the balance-sheets as on 31.03.2011 and 31.03.2012 were also matched and found to be in agreement with the uploaded returns for the relevant years, copies of which are also on record. It is only the manner of its presentation, having been taken directly to the balance-sheet (as on 31.03.2011), rather than being routed through the operating statement (which is only an account statement) and, further, due to the non-impact on the operating income on account of no business (by way of purchase and sale), that perhaps caused the misunderstanding, leading to the impugned addition.

If an additional stock stands reflected in accounts during the year in the guise of opening stock (as on 01.04.2011), as alleged, there should be a corresponding credit entry for the same in accounts, i.e., either by way of bill/s payable; again explaining its source, or, in its absence, an addition to the capital account, i.e., as per books. The opening capital as on 01.04.2011 (PB pg. 34, being the balance-sheet as on 31.03.2012), is at the same sum (Rs.104.00 lacs) as the closing capital as on 31.03.2011 (PB pg. 55). No inference of purchase outside books, or of the stock as on 01.04.2011 being unaccounted or unexplained to any extent, thus, arises. It is, in fact, all of the foregoing that informs our finding, issued at the beginning of the discussion, of the impugned addition *qua* unexplained/unaccounted stock (for Rs.61.37 lacs) as being wholly unfounded/misplaced.

We decide accordingly, allowing the assessee's Ground 1.

5. In the result, the assessee's appeal is partly allowed.

Order pronounced in the open court on March 27, 2018

Sd/-
(N. K. Choudhry)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Date: 27.03.2018.

/GP/Sr. Ps.

Copy of the order forwarded to:

- (1) The Appellant: Sh. Qazi Nazir Ahmad, 10, Jeelanabad, Peerbagh, Srinagar
- (2) The Respondent: ITO Ward-3(2), Srinagar
- (3) The CIT(A), Jammu
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

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By Order