

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.443/Chny/2018

निर्धारण वर्ष / Assessment Year : 2007-08

Shri A.Rm. Ramanathan,
17, 1st floor, Wuthucatten Street,
Periamet, Chennai - 600 003.

v.

The Assistant Commissioner of
Income Tax,
Non-Corporate Circle – 6(1),
Chennai.

PAN : AAIPR 6628 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी/Appellant by

: Shri T. Vasudevan, Advocate

प्रत्यर्थी/Respondent by

: Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of Hearing : 24.07.2018

घोषणा की तारीख/Date of Pronouncement : 19.09.2018

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -5, Chennai, dated 17.01.2018, confirming the penalty levied by the Assessing Officer under Section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2007-08.

2. Shri T. Vasudevan, the Ld.counsel for the assessee, submitted that the assessee is engaged in the business of manufacturing and

export of leather goods. During the year under consideration, according to the Ld. counsel, some of the goods sold by the assessee were rejected. In fact, the assessee purchased Wet Blue Goat Skin for manufacturing the leather goods. According to the Ld. counsel, normally, goat skin would take minimum 20 days for processing into semi finished leather. According to the Ld. counsel, the assessee purchased 17347 pieces of wet blue goat skin from M/s Nizam & Sons. Out of 17347 pieces of wet blue goat skin, the assessee rejected 1829 pieces. These rejected wet blue goat skin pieces were also available in the business premises of the assessee. According to the Ld. counsel, the vendor would raise the bill only in respect of wet blue goat skin which was accepted by the assessee after inspection. By a Delivery Note dated 03.03.2007, according to the Ld. counsel, two different varieties of wet blue goat skin were delivered. Similarly, on 27.03.2007 also two different varieties of wet blue goat skin were delivered. Since there was a difference in valuation of wet blue goat skin, according to the Ld. counsel, the Assessing Officer made addition of ₹5,43,130/-. According to the Ld. counsel, the rejected goods were taken into consideration by the Assessing Officer for the purpose of making addition on the basis of the closing stock valuation. The Ld.counsel further submitted that if the rejected goods were not taken into consideration, there cannot be any addition. The consequent levy of penalty is not justified.

Moreover, according to the Ld. counsel, due to difference in valuation of closing stock, it cannot be said that the assessee has furnished inaccurate particulars of his income or concealed any part of his income. Therefore, according to the Ld. counsel, the levy of penalty is not justified.

3. On the contrary, Ms. R. Anitha, the Ld. Departmental Representative, submitted that the assessee has not maintained any separate register for closing stock. Moreover, according to the Ld. D.R., the assessee has not valued the closing stock correctly, therefore, there was under statement of income. Hence, according to the Ld. D.R., the Assessing Officer has rightly levied penalty under Section 271(1)(c) of the Act.

4. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, the assessee is engaged in the business of manufacturing and export of leather goods. For the purpose of business, the assessee is purchasing wet blue goat skin. Out of 17347 pieces of wet blue goat skin purchased by the assessee from M/s Nizam & Sons, 1829 pieces were rejected. The assessee claims that the rejected goods were also available in the business premises of the assessee. This Tribunal is of the considered opinion that when the assessee rejected 1829 pieces of wet skin and

purchased only the balance, the rejected 1829 pieces cannot be considered for valuation of closing stock. Therefore, it cannot be said that there was concealment of income or furnishing of inaccurate particulars of such income. Hence, this is not a fit case for levy of penalty under Section 271(1)(c) of the Act. Accordingly, orders of both the authorities below are set aside and the penalty levied by the Assessing Officer as confirmed by the CIT(Appeals) is deleted.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 19th September, 2018 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 19th September, 2018.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)-5, Chennai-34

4. Principal CIT- 9, Chennai

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF.