IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 175 of 2007
Date of decision 15 .10 .2007

M/s Dabwali Transport Co. ..Appellant

Versus

The Commissioner of Income Tax, Rohtak and another .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr.M.R. Sharma, Advocate for the Appellant

M.M.Kumar, J.

This order shall dispose of two appeals being ITA Nos. 175 and 176 of 2007.

The assessee has filed the instant appeal under Section 260 A of the Income Tax Act, 1961 against the order dated 31.10.2006 passed by the Income Tax Appellate Tribunal Chandigarh (for brevity 'the Tribunal') in ITA No.398/Chandi/2004 in respect of the assessment year 2000-01. It has been claimed that the following substantial questions of law would arise for the determination of this Court:

" i)Whether in the facts and circumstances of the case the orders Annexure P.1, Annexure P.2, and Annexure P.3 are legally sustainable;

ii)Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal is right in law in sustaining an addition of Rs. 15,00000/- out of the labour charges and Rs. 3,98,670/- out of the labour charges payable as the closing of the books of accounts and paid subsequently in the financial year relevant to the assessment year 2001-02; and

iii)Whether in the facts and in the circumstances of the case the order of the ITAT Chandigarh Bench, Chandigarh, Annexure P.1 sustaining the addition of Rs. 15,00000/- and Rs. 3,98,670/- is legally sustainable the same being based on mere presumptions and surmises ?"

Brief facts of the case are that the assessee -firm is deriving its income from transportation contracts. In the year 1999-2000 a year prior to the relevant assessment year 2000-2001 it disclosed transportation receipts of Rs. 1,88,54,650/- but declared net profit of Rs. 78,160/- only after debiting expenses on account of transportation, labour, interest etc. It was noticed by the Assessing Officer that the assessee had claimed expenditure of Rs.37,79,920/- as labour expenses in respect of loading and unloading of wheat bags. It was further noticed that a sum of Rs. 2,44,555/- had been shown as outstanding loading charges @ Rs.2.50 per bag. The assessee was asked to substantiate the claim of Rs.3,79,920/-. It was found by the Assessing Officer that the assessee had not maintained complete records and even the particulars of the drivers to whom the payments were made had not been maintained. The assessee failed to produce any of the persons to whom payments were either claimed to have been made or were shown outstanding. On enquiry from HAFED by the Assessing Officer it was found that HAFED had paid to other contractors loading and unloading charges @ 56.2 paisa and 86.5 paisa per bag for loading and unloading of wheat bags of 50 Kg. weight. The Assessing Officer further found that the assessee is claimed to have paid the labourers at the rates more than the market rates. A show cause notice was issued to the assessee to which no reply was furnished. The Assessing Officer accordingly recorded a finding

that the assessee had inflated the labour expenses and disallowance of Rs. 20,00,000/- was made by the Assessing Officer. On appeal filed by the Assessee the CIT (Appeals) reduced the addition by a sum of Rs. 1,22,520/- and sustained the addition of Rs. 18,77,480/-. On a further appeal the Tribunal reduced the addition by an amount of Rs.1,32,925/- sustained by the CIT(A) but sustained an addition of Rs. 15,00,000/- out of the labour charges debited by the appellant to the profit and loss account amounting to Rs. 37,79,920/-.

After hearing the learned counsel for the assessee we find that the question of expenditure on labour charges is a pure question of fact. In an appeal filed under Section 260A of the Act, this Court cannot re-appreciate the evidence to record a conclusion contrary to the one recorded by the Tribunal. There is no standard method or chart available which may constitute the basis for us to say that norm has been violated and according to principles of law the addition sustained by the Tribunal suffers from an error of law or jurisdiction. There is thus no substantial question of law which would arise for determination of this Court. Therefore, the appeals are wholly devoid of merit and the same are accordingly dismissed.

Copy of this order be placed on the file of ITA No.176 of 2007.

(M.M.Kumar)
Judge

(Ajay Kumar Mittal)
Judge

15.10.2007
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