

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 109 of 2009

Date of decision: 21.7.2009

The Commissioner of Income Tax, Rohtak.

.....Appellant

Vs.

The Haryana Coop. Sugar Mills Ltd.,
Circular Road, Rohtak.

...Respondent

**CORAM:- HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MRS.JUSTICE DAYA CHAUDHARY**

PRESENT: Mr.Krishan Kumar Mahta, Advocate, for the appellant.

ADARSH KUMAR GOEL, J. (Oral)

1. The Revenue has preferred this appeal under Section 260A of the Income Tax Act, 1961 (for short, "the Act") against the order of the Income Tax Appellate Tribunal Delhi Bench, 'C' New Delhi passed in Assessee's Appeal in ITA No. 3465/Del/2007 for the assessment year 2003-04. Learned counsel presses only the following substantial question of law:

“ On the facts and in the circumstances of the case, whether the Hon'ble ITAT was right in law in confirming the order of CIT (A) Rohtak who deleted the addition of Rs.1,36,49,874/- made by the AO on account of under valuation of stock without passing any speaking order ?”

2. The assessee was a Cooperative Society dealing in the manufacturing and sale of sugar. Return declaring loss was filed. On assessment, the Assessing Officer made addition to the declared income by

adding interest on the cane purchase tax and further making addition to the value of the closing stock. The additions were deleted by the CIT(A) and upheld by the Tribunal. On the issue of deletion on account of interest liability, reference was made to the judgment of the Hon'ble Supreme Court in **CIT vs. Laxmi Devi Sugar Mills (P) Ltd. 188 ITR 41 (SC)**. As regards addition to the value of closing stock, it was held that the valuation of the closing stock had to be taken as per books of accounts and not by applying the average sale rate of the whole year.

3. The learned counsel for the appellant submits that the Assessing Officer was justified in applying the average sale rate for the whole year instead of adopting the average sale rate for the month of March adopted by the assessee. However, he is unable to show any principle which may justify application of average sale rate for the whole year for valuation of the stock.

4. The view taken by the Tribunal cannot, thus, be held to be perverse.

5. Question proposed cannot be held to be substantial question of law.

6. The appeal is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

(DAYA CHAUDHARY)
JUDGE

July 21, 2009
raghav

Note: Whether this case is to be referred to the ReporterYes/No