

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 69 of 1999

Date of Decision: 13.7.2010

The Income Tax Officer, Ward 2 (3), Chandigarh

....Appellant.

Versus

Upinderjit Singh

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL.
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.**

PRESENT: Ms. Urvashi Dhugga, Advocate for the respondent.

ADARSH KUMAR GOEL, J.

1. This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (in short, "the Act") against the order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as "the Tribunal") in ITA No. 91/Chandi/92 dated 4.1.1999 for the assessment year 1987-88 proposing the following substantial question of law:-

Whether on the facts and circumstances of the case, ITAT was right in law in holding that provisions of section 145 (2) of the Income Tax Act, 1961 cannot be invoked in the absence of non production/ maintenance of stock register, failure on the part of the assessee to produce bills and vouchers in

support of expenses debited to the profit and loss account, failure on the part of the assessee to justify the low net profit rate and further when assessee had understated the work done during the year by Rs.2 lacs?"

2. In the course of assessment, the assessee failed to produce the bills and vouchers in support of his claim for deduction towards the expenditure on the ground that entire profit was eaten up by the abnormal rise in the prices of men and material and as per return showed net profit of Rs.87,008/-. Invoking the provisions of Section 145 (2) of the Act, the Assessing Officer applied a net profit rate of 10% and made the addition. On appeal by the assessee against the order of the Assessing Officer, the CIT (A) held that the rejection of the books of account, on failure to produce bills and vouchers was not justified. The matter was remanded to the Assessing Officer for examining various items of expenditure debited to the profit and loss account to determine whether item of any expenditure was inadmissible and to what quantum. On further appeal by the revenue, the Tribunal upheld the view of the CIT (A).

3. We have heard the learned counsel for the revenue.

4. The contention raised on behalf of the appellant is that rejection of books of account was justified under Section 145 (2) of the Act in view of the fact that unjustifiable low net profit was disclosed and, it did not disclose the income correctly. On the face of it, there may be some merit in the contention raised by the learned counsel for the appellant but the effect of the order passed by the CIT (A) and the

Tribunal is that the Assessing Officer would be entitled to disallow claim of expenditure made by the assessee which are inadmissible in nature and remain unsubstantiated in the absence of proof of bills and vouchers. Once that is so, then the resultant income on the basis of books of account would change and the ground taken by the Assessing Officer for rejecting the books of account on the pretext that low rate of profit i.e. 1.33% of the total work done has only been shown may not stand. In the facts and circumstances of the case, the view taken by the CIT (A) as also the Tribunal can be held to be a possible view.

5. In view of the above, no question of law arises for consideration of this Court.

6. The appeal is dismissed.

**(ADARSH KUMAR GOEL)
JUDGE**

July 13, 2010
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**(AJAY KUMAR MITTAL)
JUDGE**