



THE HIGH COURT OF DELHI AT NEW DELHI

ITA 360/2002 & CM 463/2004

Date of Decision: November 9, 2004.

M/s Hindustan Tin Works Ltd.

... PETITIONER

Through: Mr.C S Aggarwal, Sr. Advocate with Mr.
Prakash Jha

- versus -

Commissioner of Income Tax-III

..RESPONDENT

Through: Mr.R D Jolly

CORAM:-

**HON'BLE MR JUSTICE B.C. PATEL, CHIEF JUSTICE
HON'BLE MR JUSTICE BADAR DURREZ AHMED**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in Digest?

B.C. PATEL, CJ (ORAL)

1. This appeal is filed under Section 260A(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act) against the order dated 23rd August, 2002 passed by the



Income Tax Appellate Tribunal, Delhi Bench (hereinafter referred to as the Tribunal) in ITA 6331/Del/96 for assessment year 1993-94.

2. The questions framed by the court are as under:-

1. Whether there was any material before the Tribunal to reverse the decision of the CIT (Appeals) and hold that the assessee had suppressed its production of tin containers?

2. Whether the Tribunal was correct in law and or facts in sustaining an addition of Rs. 1,74,58,165/- representing alleged unaccounted sales?

3. Answer to question no.2 would be dependent on the answer to question no.1.

4. The order made by the Commissioner of Income Tax (Appeal) which is produced at Annexure 4 in appeal no. 8/96-97 decided on 30-9-1996 is in detail. We have also perused the order made by the Tribunal wherein the Tribunal, in para 13, while reversing the order made by the CIT (Appeals), observed as under:-

"13. We have examined the rival submissions. The AO has methodically pointed out flows in the assessee's accounts as a result of the search in which production records were seized. In our opinion, the assessee has not been able to answer satisfactorily to any of the



queries raised by the AO. We are, therefore, in agreement with the AO that this is a fit case for rejection of accounts books and the provisions of Sec. 145(2) are clearly applicable to the facts of the case. The order of CIT(A) is set aside and the addition made by the AO of Rs. 1,74,58,165/- is upheld by us. The appeal of the department succeeds on the first ground.”

5. It is true that the Tribunal has referred to the submissions made by the counsel as well as the departmental representative. However while reversing the order made by the CIT (Appeals) no reasons have been given by the Tribunal. If a detailed reasoned order is made by the Appellate Officer and the Tribunal is in agreement therewith, then one may say that no detailed discussions are required but, when the Tribunal is reversing the order made by the appellate officer, then detailed reasons are required to be given particularly when the decision of the Tribunal is considered to be final on facts.

6. In order to ensure that there may not be prejudice to either side, we are not discussing the merits of the case as there is consensus that the matter be remanded to the Tribunal for a fresh hearing. It is in view of this that we

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are allowing this appeal with the direction to the Tribunal to hear the matter afresh in accordance with law. The appeal is allowed accordingly with no order as to costs. The questions are not required to be answered in view of the aforesaid course of action.

7. The learned counsel appearing for the parties state that matter may be fixed before the Tribunal for appearance of the counsel on 27th December, 2004. Accordingly the counsel for the parties shall appear before the Tribunal on 27th December, 2004.

Belair
CHIEF JUSTICE

Badar Durrez Ahmed
BADAR DURREZ AHMED, J

November 09, 2004
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