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**% 14.07.2011**

Present: Mr. Abhishek Maratha, Sr. Standing Counsel for the appellant.  
Mr. Satyen Sethi, Advocate for the respondent.  
Mr.N.P.Sahni, Advocate with Mr. Ruchest Sinha, Advocate for the respondent.

**+ITA No.844/2011**

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In the return filed for the AY 2003-04 the assessee had claimed deduction of certain payments made to the '*karigars*'. The assessment was carried disallowing the labour charges to *karigars*. However, this order was revised by the Commissioner of Income Tax Under Section 263 of the Income Tax Act on the ground that no verification was made by the AO on this aspect. The assessee had challenged the order by filing appeal before the Tribunal which was also dismissed. In these circumstances the AO went into this question and conducted inquiry. After verification the AO was of the opinion that the assessee had not been able to prove by cogent evidence that the payment of labour charges of Rs.50.00 lakh paid was made to *karigars* and thus disallowed the said expenses. The assessee preferred appeal thereagainst. In appeal CIT(A) allowed the deduction to the extent of Rs.25.00 lakhs and disallowed remaining part of the expenses claimed by the assessee. Both the assessee as well as the revenue preferred appeals against this order of the CIT(A). The Tribunal has dismissed the appeal of the revenue and allowed the appeal of the assessee



herein thereby directing entire expenditure to be allowed as deduction. The impugned order of the Tribunal shows that it has gone into factual aspects and has held that the assessee has been able to satisfactorily prove the payments made to the karigars. Operative part of the judgment is reproduced as under:

*"We have heard both the parties and have carefully perused the order of the authorities below. The total labour charges paid by the assessee are of Rs. 2,21,01,589/- against sale of Rs.33.69 crore, i.e. labour charges claimed at Rs.2.21 crores against sale of Rs.33.69 crore. In the assessment year under consideration, the gross profit shown by the assessee is 9.71% as against 8.92%, 9.30% and 9.61% shown and allowed in Assessment Year 2000-01, 2001-02 and 2002-03. This makes it clear that there is no suppression of profit made by the assessee. The assessee has been maintaining regular books of account and no defect has been pointed out in books of account. The assessing Officer has also not pointed out that any jewellery claimed to be manufactured by the Karigars were not actually manufactured and sold by the assessee. It is also not the case of the AO that the labour charges were paid at exorbitant high rate. The AO has merely disallowed the part of the labour charges on ad-hoc basis. It is common in this line business that payments to the Karigars are usually made in cash and mere because the payment is made in cash cannot be a ground to disallow the expenses incurred by the assessee. Disallowance sustained to Rs. 25 lakh is also purely based on surmises and imagination. There is no basis or material available to uphold the addition to the extent of Rs. 25 lakh as done by the learned CIT(A) unless any defect or discrepancy is pointed out in the books of account regularly maintained by the assessee. We, therefore, delete the disallowance of Rs. 25,00,000/- sustained by the CIT(A). In order words, the whole of the disallowance of Rs.50,00,000/- made by the AO shall stand deleted."*



From the findings of fact as arrived at by appreciation of evidence, no substantial question of law has arisen.

The appeal is dismissed.

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**A.K. SIKRI, J.**

**JULY 14, 2011**  
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**M.L. MEHTA, J.**