

Dhakeswari Cotton Mills Ltd.

Vs

Commissioner of Income-Tax, West Bengal

Civil Appeal No. 218 of 1953

(CJI M. C. Mahajan, T. L. Venkatarama Ayyar, Ghulam Hasan, S. R. Dass, N. H. Bhagwati JJ)

29.10.1954

JUDGEMENT

MEHR CHAND MAHAJAN, C.J. -

This appeal concerns the same assessee as Appeal No. 217 of 1953 and relates to the assessment of its profits for the years 1945-46 and 1946-47, the account years being 1943-44 and 1944-45. The facts and circumstances relating to these assessments are the same as have been stated in our Judgment in Appeal No. 217 of 1953, and it is unnecessary to re-state them here. The assessee duly furnished returns for these years could not be computed according to the provisions of law as the relative books of account were in the Court of the Sub-Divisional Magistrate, Narayanganj, and were not received back by the assessee till after the completion of the assessment. The Income-tax Officer did not accept the estimate disclosed of the gross profit and sales during the years and for reasons stated in the judgment relating to 1944-45 assessment he held that during these years also full amount of sales had not been accounted for. He therefore added back Rs. 23,67,000 in the year 1944 and Rs. 24,55,000 in the year 1945. The profit disclosed by the audited account in 1944 was Rs. 8,06,830 and in 1945, Rs. 8,77,800. The Income-tax Officer estimated these figures at Rs. 31,73,830 and Rs. 33,32,800 by estimating the rate of profit at 33 1/3 per cent. on sales, whereas the appellant has shown a gross profit at the rate of 20 per cent. and 19 per cent. respectively. On appeal, the Appellate Assistant Commissioner confirmed this order. On further appeal to the Tribunal, the estimate was reduced to 28 per cent. mostly for the reasons given in the judgment of the Tribunal relating to the assessment for the year 1944-45. The relevant part of the judgment dealing with these assessments is in these terms :-

"The appellant had shown a gross profit rate of 20 per cent. in 1945-46 assessment and 19 per cent. in 1946-47 assessment. After the additions made by the Income-tax Officer are taken into consideration, the gross profit are works out to 33 1/3 per cent. on the enhanced sales for both these years. The lists of cases of other cotton mills field with us by the departmental representative show that profits during these two years were a little less than the profits during the assessment year 1944-45. Considering all the facts of these cases, we are of opinion that the additions made during these two years be reduced to Rs. 14,00,000 in 1945-46 and Rs. 14,10,000 in 1946-47. This would reduce the gross profits to about 28 per cent. on enhanced sales during both these years."

No separate arguments were addressed by the learned counsel for either side in this appeal, and for the reasons given by us in our judgment in Appeal No. 217 of 1953 this appeal is also allowed, the decision of the Tribunal set aside and the case remanded to the Tribunal with similar directions as

given in Appeal No. 217 of 1953. Costs of this appeal will also abide the result.

Appeal allowed.

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