IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Case No**: ITA No. 16/2007**

Reserved on: 26.02.2026
Pronounced on:11.03.2026
Uploaded on: 11.03.2026

Whether the operative part or full Judgment is pronounced ***: Full***

Ajay Food Products

….. Appellant(s)/Petitioner(s)…..

Through: Mr. M.K.Bhardwaj, Sr. Advocate with Mr. Manik Bhardwaj, Advocate.

Vs

Income Tax Officer and others

….. Respondent(s)…

Through: Ms. Pariksha Parmar, Assisting counsel to Mr. Suraj Singh Wazir, Advocate
Mr. K.D.S. Kotwal, Advocate.

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

PER OSWAL-J

1. The appellant is a partnership concern engaged in the manufacture of Soya Naggets from Soya Beans and had availed the credit facility from State Bank of India against hypothecation of stock in the form of raw material and finished goods apart from mortgage of immovable property comprising factory, land along with building, machinery etc. On 25.09.2000, the appellant filed the statement of stock-raw material

and finished goods on estimated basis to avail cash credit facility, and inflated stock was shown as the appellant was sure that no verification of the stock and its valuation shall be made by the bank, as the factory building, land and machinery were furnished as collateral security. The bank accepted the statement of stock at its face value.

2. It is stated that the Assessing Officer during assessment proceedings checked the books and called for statements of hypothecated stocks filed with the bank. The value and quantity recorded in the books of accounts on 25.09.2000 were as under:-

S.No.	**Name of Items**	**Weight/Quantity**	**Value/Amount (Rs)**
1.	DOC Soya (Raw Material)	20666 Kgs	351322.00
2.	Soya Nuggets	2573 Kgs	51460.00

3. On the contrary in the statement filed with the Bank on 25.09.2000, the stocks and its value were as under:-

S.No.	**Name of Items**	**Weight/Quantity**	**Value/Amount (Rs)**
1.	DOC	60000 Kgs	1020000.00
2.	Soya Nuggets	8000 Kgs	160000.00

4. The appellant was confronted by the Assessing Officer regarding the discrepancy between the hypothecated stock declared to the bank and the stock reflected in the books of account. In response, the appellant explained that, in order to avail a higher cash credit facility from the bank, estimated figures of stock and its valuation were furnished in the printed proforma supplied by the bank. It was further stated that it was done as a matter of routine, with the understanding that the bank would not verify the contents thereof, particularly since collateral

security had also been provided. The appellant clarified that the figures mentioned in the hypothecation statement were merely estimates and had no correlation with the actual stock position or its actual valuation as on 25.09.2000. It is stated that, pursuant to the inquiries conducted from the bank, the bank confirmed that no verification or physical checking of the stocks reflected in the hypothecation statement dated 25.09.2000 had been undertaken. However, despite the absence of any discrepancy in the quantity or valuation of stock as recorded in the books of account, respondent No.1 held that the appellant had failed to furnish true and correct particulars of its income to the Department. Consequently, an addition of ₹7,77,218/- was made vide order dated 31.03.2004.

5. Aggrieved by the order dated 31.03.2004, the appellant preferred an appeal before the Commissioner of Income Tax (Appeals), Jammu, who, vide order dated 08.09.2004, modified the addition of ₹7,77,218/- to ₹7,00,000/-. The reduction was effected by allowing a margin of 10% on account of rounding off on estimation in the valuation of stocks as reflected in the hypothecation statement.

6. Being aggrieved by the order dated 08.09.2004 passed by the appellate authority; the appellant preferred a further appeal before the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar. However, the appellant did not succeed, as the said appeal was dismissed vide order dated 20.07.2007.

7. Aggrieved by the order dated 20.07.2007, the appellant has filed the present appeal, raising the same grounds as were urged before the

Commissioner of Income Tax (Appeals) as well as before the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar.

8. Mr. Bhardwaj, learned Senior Counsel appearing for the appellant, has placed reliance upon the judgment rendered by a co-ordinate Bench of this Court in **Ashok Kumar** Vs**. Income Tax Officer**, reported in **(2006) 201 CTR (J&K) 178** contending that the present case is squarely covered by the ratio laid down therein.

9. *Per contra,* learned counsel for the respondents submitted that the appellant's contention, that it is a common business practice to furnish inflated estimates to the bank for obtaining a higher cash credit facility, cannot be accepted. It was argued that such a practice is not recognized in law and has consistently been disapproved by the Courts. In support of his submissions, reliance has been placed upon the judgments of the High Court of Madras in case titled **Coimbatore Spinning & Weaving Co. Ltd.** Vs**. Commissioner of Income Tax**, passed in (1974) 95 ITR 375, High Court of Punjab and Haryana in case titled **Shakuntla Thukral Vs. Commissioner of Income Tax**, passed in ITA No. 302 of 2013 dated 06.02.2014 and High Court of Madhya Pradesh, Gwalior Bench in case titled **Suraj Bhan Oil (P) Ltd. Vs. Deputy Commissioner of Income Tax**, passed in IT Appeal No. 121 of 2021 dated 18.02.2022.

10. Heard learned counsel appearing for the parties and perused the record.

11. Vide order dated 09.03.2016, the following substantial questions of law were framed:-

(i) Whether any notional addition to the returned income can be sustained in law when the Income Tax Officer has neither rejected the books of accounts, nor the (respondent No.1) has held that stocks shown to the bank were available with the appellant or that valuation of stock given in the statement of hypothecation filed on 25.09.2000 was correct?

(ii) Whether the impugned order of the tribunal is sustainable in law which is based upon incorrect appreciation of law and is perverse as it is based upon no evidence?

Substantial Question of Law No.1

12. It is contended by learned Senior Counsel that inflated stock figures were furnished to the bank for the purpose of availing a higher cash credit facility, which, according to him, is a usual practice in business. It is, therefore, submitted that the Assessing Officer was not justified in making an addition of ₹7,77,218/- as taxable income. In support of his contention, learned counsel has placed reliance upon the judgment rendered by a Coordinate Bench of this Court in **Ashok Kumar Vs. Income Tax Officer**. However, the judgment relied upon was rendered in the peculiar facts and circumstances of that case. In the said matter, the Assessing Authorities as well as the Tribunal had overlooked the significant fact that the goods/stocks reflected in the trading account as on 31.03.1990 were duly verified and valued at cost, whereas the declaration made to the bank was not based on cost valuation, but was merely a rough estimate. Furthermore, in that case, only the value of the product was mentioned in the statement furnished to the bank, and not the quantity. In those circumstances, the co-ordinate Bench quashed the order passed by the Assessing Authority.

13. In the present case, however, the factual position is materially different. Not only the quantity but also the value of the raw material was specifically mentioned in the statement submitted to the State Bank of India, Purani Mandi, Jammu. At the foot of the statement, the appellant had certified that the quantities of raw material, goods-in-process and finished goods shown therein represented the true and accurate stock position as on the date of the statement and were in conformity with the permanent books of account. Thus, there was a clear admission on the part of the appellant with regard to both the quantity and value of the stock lying with it. In contrast to the case relied upon by learned Senior Counsel, the quantity was not mentioned and the estimate was held to be rough and tentative, whereas no such circumstance exists in the instant case.

14. The Income Tax Appellate Tribunal, Amritsar Bench, Amritsar has also returned a categorical finding that there existed a substantial discrepancy between the two sets of documents. It was noticed that there was a difference of approximately 39,500 kgs. in respect of Soya DOC and about 5,500 kgs. in respect of Soya Nuggets under the head of finished goods. At no stage was this significant variation satisfactorily explained by the appellant, except by reiterating that the inflated figures were furnished to secure a higher cash credit facility.

15. The High Court of Madhya Pradesh, in **Suraj Bhan Oil (P) Ltd. Vs. Deputy Commissioner of Income Tax**, has observed that a catena of decisions rendered by various High Courts have consistently held that the practice adopted by industrialists of declaring stock quantities to banks in excess of the actual position, for the purpose of obtaining

higher loans or overdraft facilities, is not recognized as conforming to fiscal discipline. Such a tendency has been deprecated as amounting to commercial immorality, aimed at securing unjustified financial advantage by furnishing incorrect statements of stock position to the bank.

16. In view of the fact that the appellant had specifically mentioned both the quantity and the value of the goods in the statement furnished to the bank, and the said statement carried a clear endorsement that the quantities of raw materials, goods-in-process and finished goods shown therein represented the true and accurate stock position as on the date of the statement and were in conformity with the permanent books of account, it cannot be said that the Assessing Authority erred in placing reliance upon such statement furnished to the bank. This court is of the opinion that the practice of declaring inflated quantities of stock to the bank for the purpose of securing higher cash credit, in fact amounts to commercial immorality and such practice cannot be countenanced in law.

17. In view of the foregoing discussion, we hold that the Assessing Authority was justified in making the addition to the taxable income on the basis of the statement furnished by the appellant to the bank. Accordingly, Substantial Question of Law No. 1 is answered against the appellant and in favour of the respondents.

<u>Substantial Question of Law No.2</u>

18. So far as Substantial Question of Law No. 2 is concerned, it has been contended that the appellant has failed to demonstrate before this Court as to how the order passed by the learned Tribunal is perverse

or based on no evidence. In the absence of any material to substantiate such a plea, we find no merit in the contention raised. Accordingly, Substantial Question of Law No. 2 is also answered against the appellant and in favour of the respondents.

19. Viewed thus, and in light of the findings recorded hereinabove on both the Substantial Questions of Law framed by this Court, we are of the considered opinion that no case for interference is made out. The impugned orders passed by the authorities below do not suffer from any illegality, perversity, or jurisdictional error warranting interference in the exercise of appellate jurisdiction. The contentions advanced on behalf of the appellant have been duly considered and found to be devoid of merit. The conclusions arrived at by the Assessing Authority, as affirmed by the Commissioner of Income Tax (Appeals), Jammu and the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, are based on proper appreciation of the material on record and do not call for any reappraisal by this Court.

20. In view of the above, this appeal is found to be without any merit and the same is, accordingly, **dismissed.**

(Rajnesh Oswal)
Judge

(Arun Palli)
Chief Justice

Jammu
11.03.2026
Madan Verma-Secy

Whether order is speaking? **Yes.**
Whether order is reportable**?** **No.**