

## Sale made out of Opening Stock can't be treated as Unexplained Income to be taxed as Income from Other Source

### Fact of the Case

- In the present case Akshit Kumar is the Respondent-Assessee who filed his ITR declaring his income.
- The declared sources of income of the Respondent-Assessee were salary, income from business and profession and other sources. The declared income included an amount of Rs. 3,19,580 under the head income from business and trading of textiles. The case was selected for scrutiny and notices under Sections 143(2) and 142(1) were issued by the Assessing Officer from time to time
- The AO held The assessee had neither shown any building in its fixed asset schedule nor any rent expense in his P/L Account. The assessee had shown a huge opening stock of 19,85,109.530 kg valued at over Rs.30 crores which would require considerable storage space. It is pertinent to answer if the assessee was indeed selling goods from the opening stock available with it, then where was this stock stored.

### Decision of the Case

- The two-member bench of High Court observed that the stock was available with the assessee in his books of account and trading in such stock including purchase, sale, opening and closing stock (quantity wise and value wise) has been accepted by the department year after year and in some years under scrutiny proceedings, therefore, non existence of stock or business cannot be upheld.
- Secondly, the sale of stock in the earlier years and the sale of balance left out stock in subsequent years has been accepted or has not been disturbed, then to hold that no stock was sold in this year and remained with the assessee will be a difficult proposition
- Thirdly, inquiry and inspection by the AO done much after the closure of business may not be persuasive for the past events.
- Lastly, once neither any item in the trading account, nor gross profit has been rejected, then one part of the credit side of the trading account, that is, sales cannot be discarded completely so as to hold that it is unexplained money.
- The two-member bench of Justice Sanjeev Narula and Justice Manmohan opinion the sale made by the assessee out of his opening stock cannot be treated as unexplained income to be taxed as income from other sources.