

**I- T: Of Balance Sheets And- Bank Declarations**  
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INVARIABLY the stock declared by business entities in their balance sheets (to compute taxable profits) and that declared to the banks (for computing working capital drawing limits) tend to vary. Can the assessing officer upon detection proceed to tax such difference, as income from undisclosed sources?

*Solution:* The assessee's income is to be assessed by the ITO on the basis of the material which is required to be considered for the purpose of assessment and ordinarily not on the basis of the statement which the assessee may have given to a third party unless there is material to corroborate that statement of the assessee given to a third party, even if it be a bank. The mere fact that the assessee had made such a statement by itself cannot be treated as having resulted in an irrefutable presumption against the assessee.

The burden is on the revenue to prove that the assessee has not disclosed correct stock and has understated the stock value for income tax records. That burden cannot be said to be discharged by merely referring to the statement given by the assessee to a third party in connection with a transaction which was not directly related to the assessment.

Ref: CIT v. N. Swamy(2000) 14DTC 4 DTC 410 (Mad HC) : (2000) 241 ITR 363 (Mad)

When the books of accounts have been accepted by the Assessing Officer then he cannot go further unless he has some clinching evidences. The Assessing Officer must reject the books of accounts and must substantiate as to why books have been rejected.

This requires tremendous effort from the Assessing Officer. The assessee also should prove that the statement given to the bank is only to obtain working capital facility and if the goods are subject to excise then tally the same with excise records such as R.G. Register. Further the physical stock given to the bank should not bear the character of being the correct stock through any other corroborative evidence eg the stocks should not have been physically verified by the bank and found to be correct as per the declaration made to them, because this would be a corroborative evidence..

In CIT v. Sri Padmavathy Cotton Mills (1999) 236 ITR 340 (Mad The assessee tallied the stock declared in the income tax return with the statutorily maintained R.G. Register and there was also no evidence to show that the bank actually verified the physical stock for tallying the same with the books. Hence addition could not be made.

The Supreme Court in Parimisetti Seetharamamma vs CIT (1965) 57 ITR 532 (SC) has held that the burden is on the revenue to prove that income liable to tax is within the taxing provisions and should establish beyond doubt that there was in fact an income liable for tax assessment which has escaped taxation..

*Conclusion:*

□ Assessee must be in a position to explain that the value of the stocks as stated by him in the declaration given to the bank was inflated and that he had not suppressed the value of the stock.

Remember it has been held by various courts that where an assessee claims that the books of account alone is correct and inflated stocks in statements given to banks to get loan is motivated, heavy burden lies on him to prove the correctness of the claim.

- Their should be no corroborative evidence to prove that the stock statement given to the bank was physically verified and found correct as on that date. eg, excise records, physical verification by bankers.
- Their should not be sufficient grounds for the Assessing officers to reject the books of accounts; if rejected, the Assessing officer may use such stock statement for determining the taxable profits. But for rejecting the books it requires tremendous efforts by the Assessing officer to substantiate the reasons.
- Possible explanation could be that the discrepancy in the stocks was due to the fact that the statement of stocks given to the banks was only on an estimated basis and not based on actuals.
- In Coimbatore Spinning & Weaving Co. Ltd. vs. CIT ,High Court of Madras, the Court observed that the alleged practice said to be followed by business houses of declaring larger stocks to the banks for the purpose of getting higher loans or overdraft facilities has neither been shown to exist nor recognised in commercial circles or by Courts and even assuming that such a practice exists, the fact finding authorities are not expected to take judicial notice of such substandard morality on the part of the assesseees so as to enable them to go back on their own sworn statements given to the banks as to the stocks held or hypothecated by them in the banks. In view of above, it is imperative that all the aforesaid points should be taken care of if inflated stock statements are given to banks. (Parimisetti Seetharamamma vs. Commissioner of Income Tax Supreme Court of India)