

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'C(SMC)' BENCH, KOLKATA**

Before Shri S.V. Mehrotra, Vice-President(KZ)

**I.T.A. No. 2119/KOL/ 2016
Assessment year : 2010-2011**

**Mr. Biswanath Shaw,.....Appellant
Ichapur, HIT Road, Howrah-711 104
[PAN : AKRPS 9571 M]**

-Vs.-

**Joint Commissioner of Income Tax,.....Respondent
Range-48, Kolkata,
3, Government Place (West),
Kolkata-700 001**

Appearances by:

Shri Sanjay Bhattacharya, F.C.A., for the assessee

Shri Saurav Kumar, Addl. CIT, D.R., for the Department

Date of concluding the hearing : May 22, 2017

Date of pronouncing the order : May 24, 2017

O R D E R

Per S.V. Mehrotra, V.P.(KZ):

This appeal has been filed by the assessee against the order of Id. Commissioner of Income Tax (Appeals)-14, Kolkata dated 29.07.2016 for the assessment year 2010-11.

2. Shri Sanjay Bhattacharya, F.C.A., appeared on behalf of the assessee and Shri Saurav Kumar, Id. Addl. CIT, D.R. represented on behalf of the Revenue.

3. Brief facts of the case are that the assessee had filed its return of income showing total income of Rs.5,72,442/-, which consists of profit from the proprietary concern M/s. Lakshmi Steel Traders dealing in iron and steel items. The assessment was completed under section 143(3) at Rs.19,00,897/-, *inter alia*, making the following additions:-

(a)	Bonus liability (as discussed in para (1) the order	Rs.4,81,028/-
(b)	Bogus purchases (as discussed in para 2) of the order	Rs.3,53,766/-
(c)	Discrepancy in closing balance with M/s. Chowdhury Enterprises (as discussed in para 3 of the order)	Rs.4,21,897/-

4. With regard to bogus liability on account of creditors, the assessee had shown liability for Rs.17,89,387/- on account of creditors as on 31.03.2010 in respect of the creditors namely (a) M/s. Vaid Enterprise amounting to Rs.1,24,248/-, (b) M/s. Surekha Commercial Co. Limited amounting to Rs.5,06,504/-, (c) M/s. Festo Marketing amounting to Rs.2,34,981/-, (d) M/s. Testeels amounting to Rs.8,95,196/- and (e) M/s. Stainless Emporium amounting to Rs.28,458/-. But as per the information gathered under section 133(6) from those parties, the amount of creditors was much lesser than what had been claimed by the assessee. The assessee was requested to explain the discrepancy with supporting evidence and papers. The assessee finally appeared on 07.11.2012 before the Assessing Officer and explained inability to explain the discrepancy. The Assessing Officer, therefore, treated the discrepancy of liability of creditors amounting to Rs.4,81,028/- as concealed income and added the same to the total income of the assessee.

5. With regard to purchases made as per assessee's book from M/s. Oswal Steel Corporation amounting to Rs.4,07,866/-, M/s. Vail Enterprises, amounting to Rs.8,93,593/- and from M/s. Surekha Commercial (P) Limited amounting to Rs.5,69,829/- was quite different as per parties book. The assessee was asked to explain the discrepancy in respect of transaction with other parties. The A/R expressed their total inability to explain the discrepancy. However, assessee's explanation regarding discrepancy for Rs.1,25,830/- in respect of transaction with M/s. Surekha Commercial Co. (P) Ltd. was accepted but the amount of discrepancy in respect of transaction with M/s. Vail Enterprises and M/s. Oswal steel Corporation amounting to Rs.1,03,078/- and Rs.2,50,688/-

aggregating to Rs.3,53,766/- was treated as bogus by the Assessing Officer and added the same to the total income of the assessee because of the reason that the assessee did not furnish party-wise quantity of goods purchased and sold.

6. With regard to discrepancy in closing balance with M/s. Chowdhury Enterprise, the assessee claimed that a sum of Rs.10,53,814/- was payable to it as on 31.03.2010 but on enquiry conducted under section 133(6), it was observed that a sum of Rs.14,75,711/- was payable to the said party from the assessee as on 31.03.2010. The assessee was requested to explain the discrepancy in closing balance. The assessee himself and his A/R appeared on 07.12.2012 and filed a letter dated 07.12.2012 explained that the discrepancy was due to payment made to M/s. Chowdhury Enterprises, which was merely a routine nature and casual one, which was not supported by any sorts of evidence/papers. Not being satisfied the Assessing Officer rejected the said explanation and added the same to the total income of the assessee.

7. In appeal, the Id. CIT(Appeals) confirmed the additions made by the Assessing Officer.

8. Being aggrieved with the order of the Id. CIT(Appeals), the assessee is in appeal before the Tribunal assailing on the three additions.

9. At the time of hearing before me, the Id. counsel for the assessee filed a statement showing reconciliation of differences in accounts as noted in the assessment order, which is as under:-

BISWANATH SHAW
(Proprietor : Lakshmi Steel Traders)
(ITA No : 2119/Kol-2016)

Assessment Year 2010-11 (Year ended on 31/03/2010)

Reconciliation of Differences in Accounts as noted in the Assessment Order

	Rs.	Rs.
1. Vaid Enterprises		
Closing Balance As per Books of Appellant : Due to Appellant (shown as Advance to Suppliers)		124,247.52
Less: Difference in Opening Balances (Rs.341,977.00 Less Rs.203,876.48)		<u>138,100.52</u>
Closing Balance as per Books of Vaid Enterprises : Due from Appellant :		<u>13,853.00</u>
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2. Sureka Commercial Ltd.		
Closing Balance as per Books of Appellant : Due from Appellant (shown as Sundry Creditors)		506,504.30
Add: Difference in Opening Balances (Rs.308,50500 Less Rs.236,891.30)		<u>71,613.70</u>
		578,118.00
Add: Bill dated 02/02/2010 not entered into Appellant's Books		<u>125,830.00</u>
		703,948.00
Less: Discount allowed by Sureka Commercial P. Ltd.		<u>8,289.00</u>
Closing Balance as per Books of Sureka Commercial P. Ltd.: Due from Appellant :		<u>695,659.00</u>
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3. Festino Marketing Co. P. Ltd.		
Closing Balance as per Books of Appellant : Due to Appellant (shown as Advance to Suppliers)		234,981.00
Less: Difference in Sale Invoice dated 08/08/2009 (Rs.65,931.00 Less Rs.65,913.00)		<u>18.00</u>
Closing Balance as per Books of Festino Marketing Co. P. Ltd. :		<u>234,963.00</u>
	Purchases	329,303.00
	Sales	<u>94,340.00</u>
		<u>234,963.00</u>
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4. Oswal Steel Corporation		
Purchase as per Books of Appellant		407,866.00
Less: Purchase from 'Oswal Steel' (Bill dated 20/05/2009) wrongly entered in this Account		<u>250,068.00</u>
Purchase as per Books of Oswal Steel Corporation :		<u>157,798.00</u>
(In Assessment Order the amount was wrongly written as Rs.197,198)		
(Note : Rs.250,000.00 out of the above-mentioned sum of Rs.250,068.00 was paid by the appellant to 'Oswal Steel Corporation' on 22/05/2009)		
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5. Vaid Enterprises		
Purchase as per Books of Appellant		893,543.00
Less: Purchase from 'Vaid Enterprises (India) Pvt. Ltd.' (Bill dated 09/04/2009) wrongly entered in this Account		<u>103,078.00</u>
Purchase as per Books of Vaid Enterprises :		<u>790,465.00</u>
(Note : The above-mentioned sum of Rs.103,078.00 was paid by the appellant to 'Vaid Enterprises (India) Pvt. Ltd.' on 24/04/2009)		
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6. Chowdhary Enterprises		
Closing Balance as per Books of Appellant : Due from Appellant (shown as Sundry Creditors)		1,053,814.06
Add: Difference in Opening Balances Rs.(2,088,184.00 Less 1,613,388.06)		<u>474,795.94</u>
		1,528,610.00
Less: Payment made on 01/07/2009 and entered in the Books of 'Chowdhury Enterprises', but in the Books of Appellant wrongly debited to the Account of 'M. K. Enterprises' instead of 'Chowdhary Enterprises'		<u>52,899.00</u>
Closing Balance as per Books of Chowdhary Enterprises :		<u>1,475,711.00</u>

He submitted that the differences arose because of discounts offered not accounted for, material return, etc. Further as regards M/s. Vaid Enterprises, the ld. counsel for the assessee referred to page 12 of the paper book, wherein the ledger account of M/s. Vaid Enterprise was shown in his books of account to demonstrate that there was a debit balance of Rs.1,24,247.52 but the Assessing Officer accepted the same as credit balance by observing that M/s. Vaid Enterprise was the creditor of the assessee. He submitted that in other cases also, the addition has been made because of various aspects, which was not considered by the Assessing Officer. He, therefore, argued that the matter may be restored back to the file of the Assessing Officer for re-examining the issue afresh

in regard to these additions. The Id. D.R. also agreed that the matter may be restored back to the file of Assessing Officer for re-examination.

10. I have considered the submissions of both the parties and have perused the material available on record. From the ledger account of M/s. Vaid Enterprise, I find that there was a debit balance of Rs.1,24,247.52, whereas the Assessing Officer has treated the same as sundry creditor and, therefore, the observation of the Assessing Officer is not correct. Id. counsel claiming that similar differences also occurred in other cases also which has been explained in the reconciliation statement filed. I, therefore, restore the matter to the file of the Assessing Officer for re-examination of the entire facts in regard to these additions de novo as agreed by both the parties.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24.05.2017.

Sd/-

S.V. Mehrotra
(Vice-President)
Kolkata, the 24th day of May, 2017

- Copies to :
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 - (2) **Joint Commissioner of Income Tax,**
Range-48, Kolkata,
3, Government Place (West),
Kolkata-700 001
 - (3) *Commissioner of Income-tax (Appeals)-14, Kolkata*
 - (4) *Commissioner of Income Tax- ,*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

Senior Private Secretary,
Head of Office/DDO,
Income Tax Appellate Tribunal
Kolkata Benches, Kolkata