

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "G", NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

AND

SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 3754/DEL/2012

A.Y. 2009-10

INCOME TAX OFFICER,  
WARD 39(4),  
NEW DELHI  
ROOM NO. 237, 2<sup>ND</sup> FLOOR,  
C.R. BLDG.,  
I.P. ESTATE, NEW DELHI

VS.

M/S SHABNAM HIDE CO.  
7427, QURESH NAGAR,  
SADAR BAZAR,  
DELHI – 110 006

(PAN: AABCG5754B)

**(APPELLANT)**

**(RESPONDENT)**

Department by : Sh. Koushlendra Tiwari, Sr. DR

Assessee by : None

**ORDER**

**PER H.S. SIDHU, JM :**

This appeal by the Revenue is directed against the Order of the Ld. Commissioner of Income Tax (Appeals)-XXVIII, New Delhi dated 23.5.2012 pertaining to Assessment Year 2009-10 on the following grounds:-

1. *That the Ld. CIT(A) erred in deleting the addition of Rs. 6,40,18,580/- on account of unexplained sundry creditors merely on the submission of the assessee completely ignoring the fact that*

*assessee failed to furnish neither the complete address nor the confirmation of the sundry creditors.*

2. *That the Ld. CIT(A) erred in deleting the addition of Rs. 14,00,000/- on account of bogus expenses merely on the submission of the assessee completely ignoring the fact that the assessee failed to furnish the details.*
3. *That the Ld. CIT(A) admitted additional evidences without providing AO an opportunity of rebuttal under Rule 46A.*
4. *That the grounds of appeal are without prejudice to each other.*
5. *The appellant craves to add, amend or modify the grounds of appeal at any time.*

2. The brief facts of the case are that the Assessee filed its return of income declaring income of Rs. 2,81,128/- on 17.9.2009. The case of the assessee was processed u/s. 143(1) of the Income Tax Act, 1961 and was taken up for scrutiny. Notice u/s. 143(2) of the Act dated 23.8.2010 and subsequently notice u/s. 142(1) alongwith questionnaire were issued and served upon the assessee. During the course of assessment proceedings, assessee firm has derived business income from Trading of Hides, Skins and Fresh Meat. The business of fresh meat was the new item added in the business of the assessee firm. The assessee was repeatedly asked vide

various notices issued u/s. 142(1) of the Act and various order sheet entries to produce original books of account alongwith original bills / vouchers. AO observed that assessee has failed to produce the books of account alongwith the original bills and vouchers and also failed to produce either the confirmations of sundry creditors or their complete address so that independent verifications can be made by the Department. No partywise list of persons alongwith their addresses from whom purchases have been made has been submitted and the absence of above genuineness of the sundry creditors claimed by the assessee remained unverified. Therefore, he completed the assessment u/s. 144 of the Act vide order dated 30.12.2011 and assessed the income at Rs. 6,57,99,710/- by making two additions i.e. Rs. 6,40,18,580/- on account of unverified and unjustified bogus sundry creditors and Rs. 15,00,000/- on account of unjustified bogus expenses. Against the assessment order, the assessee appealed before the Ld. CIT(A), who vide his impugned order dated 23.5.2012 has partly allowed the appeal of the assessee. Aggrieved with the impugned order passed by the Ld. CIT(A), Revenue is in appeal before the Tribunal.

3. Ld. DR relied upon the order of the AO and reiterated the contentions raised in the grounds of appeal.

4. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor its authorized representative appeared to prosecute the matter in dispute, nor filed any

application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal *ex parte qua assessee*, after hearing the Ld. DR and perusing the records.

5. We have heard the Ld. DR and perused the records, especially the order of the Ld. CIT(A). On going through the aforesaid findings of the Ld. CIT(A) made in the impugned order as well as the finding of the Assessing Officer made in the assessment order, we find that AO has passed the *ex parte* order dated 30.12.2011 u/s 144 of the Act, because the assessee failed to produce original books of accounts alongwith original bills / vouchers and also failed to produce either the confirmations of sundry creditors or their complete address so that independent verifications can be made by the Department. AO also observed that no party-wise list of persons alongwith their addresses from whom purchases have been made has been submitted and the absence of above genuineness of the sundry creditors claimed by the assessee remained unverified. Therefore, he completed the assessment u/s. 144 of the Act vide order dated 30.12.2011 and assessed the income at Rs. 6,57,99,710/- by making two additions i.e. Rs. 6,40,18,580/- on account of unverified and unjustified bogus sundry creditors and Rs. 15,00,000/- on account of unjustified bogus expenses. Against the assessment order, the assessee appealed before the Ld. CIT(A), who vide his impugned

order dated 23.5.2012 has partly allowed the appeal of the assessee by observing that AO has failed to take note is that Financial Statement of Accounts alongwith Audit Report for the year under appeal as well as for preceding year (AY 2008-09) were submitted on the very date of hearing on 25.01.2011 by the assessee. Ld. CIT(A) was further of the view that AO has wrongly observed that all sales are bogus, however, all the sales made to MDA Export amounting to Rs. 3,08,27,505.75 have been duly confirmed by the AO and as all purchases made by MDA Exports having been verified by Joint Commissioner of Income Tax Range-39 while completing scrutiny assessment of MDA Exports. Ld. CIT(A) further observed that AO has wrongly held that meat sales of Rs. 3,08,27,505.75 are bogus, without giving any specific reason show the purchases of hides and skin amounting to Rs. 4,24,49,093/- and sales thereof amounting to Rs. 4,66,15,695/- are held bogus, however as far as hide and skin sales of Rs. 4,66,15,695/- is concerned, not a single sale made to 13 parties is disputed by the AO. All realization against sales have been made by the assessee from through cheques. No cash credit entry noted by the AO in the books of the assessee. Ld. CIT(A) further observed that AO also disallowed a sum of Rs. 15 lacs out of the expenses for salt, carriage inward, carriage outward and labour charges on adhoc basis as no details were produced and they were unverifiable. As per Ld. CIT(A)'s view the disallowance made is unjustified and without any basis, hence, he sustain and restrict a reasonable amount of disallowance to the tune of Rs. 1,00,000/- out of total of Rs. 15,00,000/-. In view of the above, we are of

the considered opinion, that AO has completed the assessment u/s. 144 of the Act in the absence of the proper evidence, which the assessee has not produced before him. Therefore, in the interest of justice, we think it proper to set aside the issues in dispute to the file of the AO to decide the same afresh, after making independent inquiry and verification, as deem fit. However, the Assessee is also directed to submit all the necessary documents, as asked by the AO during the assessment proceedings and fully cooperate with the AO and did not take any unnecessary adjournment. Accordingly, the issues in dispute are set aside to the file of the AO with the aforesaid directions.

6. In the result, the Appeal filed by the Revenue stands allowed for statistical purposes.

Order pronounced on 05/10/2017.

Sd/-

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

Sd/-

**(H.S. SIDHU]  
JUDICIAL MEMBER**

Date:05/10/2017

"SRBHATNAGAR"

**Copy forwarded to: -**

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY  
By Order,

Assistant Registrar,  
ITAT, Delhi Benches