

IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'SMC' KOLKATA

[Before Hon'ble Shri J.Sudhakar Reddy, AM]

**ITA No.1825/Kol/2016**  
Assessment Year : **2006-07**

Smt.Kanak Chakraborty  
Kolkata  
(PAN: ACOPC 6573 E)  
(Appellant)

-versus-

A.C.I.T., Circle-43,  
Kolkata  
  
(Respondent)

For the Appellant: Shri Rip Das, FCA  
For the Respondent: Shri Saurav Kumar, Addl. CIT

Date of Hearing : 28.07.2017.

Date of Pronouncement : 31.10.2017.

**ORDER**

**PER J.SUDHAKAR REDDY, AM:**

This is an appeal by the Assessee directed against the order of the Commissioner of Income Tax-(A)-13, Kolkata relating to A.Y. 2006-07.

2. The assessee has two proprietary business under the name and style of M/s. NB International and M/s. Nim Chan Textile.

3. The additions as confirmed by the Id. CIT(A), which are in dispute before me are dealt with item-wise.

4. After hearing the rival contentions and considering the papers on record and the orders of the authorities below I hold as follows :

a)Disallowance of Rs.1,36,773 – The AO disallowed these expenses on adhoc basis. The assessee's case is that there is no increase in the expenditure as compared to earlier years and no adhoc disallowance can be made without bringing on record any evidence. I agree with this submission. I have gone through the tabular chart of

expenditure given by the assessee for the current and previous three financial years. Hence I delete this addition and allow the ground.

b) Addition of undisclosed net profit of Rs.1,26,240/- - The AO applied the provision of section 44AD to the turn over of M/s. Nim Chan Textile and made an addition of Rs.1,26,240/-. The assessee submits that the books were maintained in the regular course of business. The fact remains that the assessee has not produced the books of account. The assessee's contention is that the assessee has carried out the business during the year and the Gross receipt are Rs.29,35,120/-. This figure has been accepted by the AO. On the facts and circumstances of the case I uphold the addition of Rs.1,26,240/- and dismiss this ground of the assessee as books of account were not produced and hence the application of Section 44AD is correct.

c) The next addition is disallowance of claim of interest paid of Rs.8,00,082/-. The interest was paid on loans taken from the bank. The disallowance was made on the ground that the assessee has sufficient cash and bank balances and hence there was no necessity of borrowing this amount. Admittedly, the bank loans was sanctioned as, over draft limit (OD) of Rs.200 lakhs, Rs.100 lakhs for foreign bill purchase (FBW) and Rs.50 lakhs for packing credit (PCL). The very fact that the bank has granted such facilities demonstrated that these were for the purpose of business. The bank also insisted on Margin money by way of fixed deposits. It is not for the AO to decide Business necessity. These limits granted by the bank are not for personal purposes. Hence this disallowance is deleted and the ground of the assessee is allowed.

d) The last addition is of an amount of Rs.9,85,175/- on the ground that closing stock was undervalued. The AO as well as CIT(A) were of the view that the cost price of the closing stock should be taken. The assessee claims that he regularly follows the method of valuing the stock at realisable value cost or net value whichever is less. The AO has taken the average value of opening stock and the average value of closing stock and as multiplied this value with the closing inventory of 1,19,4125.25 kgs to arrive at an addition of Rs.9,85,175/-. The assessee's case is that, the realisable value

has fallen as the assessee was holding this item of stock for the past several years. It was submitted that due to passage of time the quality deteriorate and ultimately the assessee could stock at a market price of Rs.200 per kg as against the cost price of Rs.450/- per kg. The sale invoice of the next years was produced as evidence of fall off the market price. This sale of stock proves the case of the assessee. No contrary evidence is put before me by the revenue. Under the circumstances the evidence furnished by the assessee should have been accepted. Thus I delete this addition on account of under valuation of stock and allow this ground of the assessee.

5. In the result the appeal of the assessee is allowed in part.

**Order pronounced in the Court on 31.10.2017.**

Sd/-  
[ J.Sudhakar Reddy ]  
Accountant Member

Dated :31.10.2017.

[RG PS]

Copy of the order forwarded to:

- 1.Smt.Kanak Chakraborty, C/o P.S.Gupta (Advocate), 100, Bank Lane, hatar Para, P.O.Krishnagar, Dist. Nadia. Pin-741101.
2. A.C.I.T., Circle-43, Kolkata.
3. C.I.T.(A)-13, Kolkata      4.C.I.T-15, Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

Senior Private Secretary  
Head of Office/D.D.O, ITAT Kolkata Benches