

आय अाधिकरण, “सी” ँयायपीठ, चेन्नई
PELLATE TRIBUNAL ‘C’ BENCH, CHENNAI

श्री अाहम पी. जाँजलेखा सदय एवं श्री धुवु आर.एल रेडी, ँयायक सदय के समु
Before Shri Abraham P. George, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I T.A. No. 198/Mds/2017

अाधारण वष/Assessment Year:2012-13

The Deputy Commissioner of
Income Tax,
Corporate Circle 1(1),
Chennai 600 034.

M/s. Alacrity Housing Ltd.,
Vs. 15, Thirumalai Road, T. Nagar,
Chennai 600 017.
[PAN:AAACA3176G]

(Appellant)

(Respondent)

अपीलाथु क ओर से / Appellant by : Shri Sailendra Mamidi, PCIT
अथु क ओर से/Respondent by : Shri R. Sivaraman, Advocate
सुनवाई क तारख/ Date of hearing : 06.09.2017
घोषणा क तारख /Date of Pronouncement : 21.09.2017

आदेश / O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 6, Chennai dated 04.10.2016 relevant to the assessment year 2012-13. The only effective ground raised in the appeal of the Revenue is that the Id. CIT(A) has erred in deleting the addition made under section 41(1) of the Income Tax Act, 1961 [Act+ in short] without appreciating the fact that the assessee has not established the existence of huge liabilities with convincing evidence before the Assessing Officer, since the assessee has stopped its business activity way back in

claim of protracted litigations and existence of liabilities for years together, is without any supporting documents and not verifiable.

2. Brief facts of the case are that the assessee is engaged in business of property developers and filed its return of income on 28.09.2012 admitting total loss of ₹.12,63,145/-. The return filed by the assessee was taken up for scrutiny and notice under section 143(2) of the Act dated 06.08.2013 was issued and duly served on the assessee on 23.08.2014. Later, notice under section 142(1) r.w.s. 129 of the Act 29.12.2014 was also served on the assessee 26.06.2014. After considering the submissions of the assessee and verifying the details, the assessment under section 143(3) of the Act was completed on 24.02.2015 determining the total income of the assessee at ₹.41,57,32,855/- after making an addition of ₹.41,69,96,000/- as income under section 41(1) of the Act towards huge creditors/loans.

3. The assessee carried the matter in appeal before the Id. CIT(A) and challenged the additions made by the Assessing Officer. After considering the submissions of the assessee, the Id. CIT(A) allowed the appeal of the assessee.

4. Aggrieved, the Revenue is in appeal before the Tribunal. The Id. DR has submitted that primarily, the onus lies on the assessee to prove the

the creditors and genuineness of the transactions of the credits before the Assessing Officer and in this case, the assessee failed to prove the same, warranted addition under section 41(1) of the Act. Without any material evidence, the Id. CIT(A) has accepted the submissions of the assessee and allowed the ground raised by the assessee. Thus, the Id. DR pleaded that the order of the Id. CIT(A) should be reversed and restored that of the Assessing Officer. On the other hand, the Id. Counsel for the assessee strongly supported the order passed by the Id. CIT(A).

5. We have heard both sides, perused the materials on record and gone through the orders of authorities below. During the course of assessment proceedings, on perusal of the annual report, 2012 of the assessee, the Assessing Officer noticed that assessee has shown huge unsecured loans to the tune of ₹.11,14,70,000/-, trade payable to the tune of ₹.3,84,21,000/-, advance from customers to the tune of ₹.14,65,27,000/- and deferred project overruns to the tune of ₹.12,05,78,000/-. Therefore, the assessee was directed to furnish the identity of persons, genuineness of these transactions and creditworthiness of the said creditors. It was the submissions of the assessee before the Assessing Officer that these are very old credit balances pending for long time and also filed certain statements showing addresses of few of these creditors and for most of the cases, the details are

assessee failed to furnish complete details of creditors/loans, the Assessing Officer treated the same as income of the assessee under section 41(1) of the Act.

6. During the course of appellate proceedings, it was the submissions of the assessee before the Id. CIT(A) that the assessee was locked in various legal cases towards claims from creditor/customers towards repayment of loans/credits. It was also submitted that the assessee has submitted that the documentary evidences were furnished wherever possible to the Assessing Officer and addresses of other creditors to whom the company owed anything more than .1 lakh, the details of which for most of the creditors whose dues aggregate to .3775.64 lakhs were duly submitted to the Assessing Officer. After considering the submissions of the assessee and taking cue of various decisions, the Id. CIT(A) directed the Assessing Officer to delete the addition.

6.1 On perusal, we find that the assessment order is silent as to what extent the particulars of the creditors were furnished by the assessee or the Assessing Officer has made any extensive enquiry with the details furnished by the assessee and moreover, the assessment is very cryptic with few sentences. As per the summary of details furnished by the assessee before the Id. CIT(A) and extracted in the appellate order, it is evident that most of the details were furnished by the assessee before the Assessing Officer, but

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...lling confirmation from the creditors, etc., the Assessing Officer has hurriedly proceeded to complete the assessment by making additions. Under the above facts and circumstances, we direct the Assessing Officer to make proper enquiry with the creditors as was furnished by the assessee during the course of assessment proceedings and decide the issue afresh after allowing sufficient opportunity of hearing to the assessee. The assessee is also directed to furnish leftover details before the Assessing Officer for verification. Thus, the ground raised by the Revenue is allowed for statistical purposes.

7. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced on the 21st September, 2017 at Chennai.

Sd/-
(ABRAHAM P. GEORGE)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 21.09.2017

Vm/-

आदेश क० प्रतिलिपि आदेशत/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. क्षेत्राधीन प्रशासक/DR & 6. गाडफ़ाईल/GF.