

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
 INDORE BENCH, INDORE  
 BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
 AND SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.678/Ind/2013  
 Assessment Year: 2009-10**

Shri Rajesh Jain Prop. M/s. Rajat Sales Corporation, 89/1, Lodhipura, Indore (Appellant)	Vs.	Income Tax Officer, 2(2) , Indore  (Respondent )
<b>PAN No.AAZPJ7931Q</b>		

Respondent by	Shri Rajeev Jain, Sr.DR
Appellant by	Shri Ashish Goyal & Shri N.D. Patwa,Advocates (AR)
<b>Date of Hearing:</b>	<b>02.01.2018</b>
<b>Date of Pronouncement:</b>	<b>16.01.2018</b>

**ORDER**

**PER MANISH BORAD, AM.**

This appeal filed by the Assessee is directed against the order of Id. Commissioner of Income-tax (Appeals)-1, Indore [in short referred to as the CIT (A)] dated 16.09.2013 arising out of the order u/s 250/143(3) of the Income Tax Act dated 28.12.2011 framed by the Income Tax Officer, Ward 2(2), Indore pertaining to Assessment Year 2009-10.

2. The assessee has taken following grounds of appeal.

*“1(a) That, the learned CIT(A) grossly erred, both on facts and in law, in confirming addition of Rs.27,00,000/- made by the Assessing Officer in the appellant’s income on account of alleged undisclosed contractual receipt from IDA, without accepting and appreciating the explanation of the appellant.*

*(b) That, without prejudice to the above, the learned CIT(A) grossly erred, both on facts and in law, in confirming the entire addition of Rs.27,00,000/- on account of alleged suppressed contract receipts, without appreciating the material fact that the appellant had not claimed any expenditure in respect of the alleged contract receipts and therefore, at the most the additions could have been restricted to the amount of net profit earned on the suppressed contract receipts.*

*2. That, the learned CIT(A) grossly erred, both on facts and in law, in not admitting the additional evidences furnished by the appellant under Rule 46A of the Income Tax Rules, 1962 on the extraneous and non-existing grounds.*

*3. That, without prejudice to the above, on the facts and circumstances of the case, the learned CIT(A) grossly erred, in confirming addition of Rs.15,52,617/- made by the Assessing Officer on account of unsecured loans taken by the appellant from various persons, by invoking provisions of section 68 of the Income-Tax Act, 1961, without accepting the appellant’s submission and without considering the material fact that the appellant had duly established the identity of the creditors, the genuineness of the loan transactions and as also the creditworthiness of the loan creditors beyond all doubts.”*

3. Briefly stated facts as culled out from the records are that the assessee is an individual running business of supply to government departments under proprietary ship concern M/s. Rajat Sales Corporation. Return of income filed on 30.09.2009 declaring total income of Rs.8,83,030/-. Case selected for scrutiny through CASS. Necessary notices u/s 143(2) and 142(1) of the Act were issued. The Ld.A.O observed difference in the total contract receipts as appearing in the information received through AIR and the contract receipt shown in the books of accounts. The unaccounted receipts were calculated at Rs.27,00,000/-. The Ld.A.O also observed that

there are various creditors which the assessee could not justify to be genuine and creditworthy. Ld. AO treated such creditors totaled at Rs.15,52,517/- as bogus. Assessment completed at income of Rs.51,35,647/- after making additions of Rs.42,52,617/-.

4. The appeal filed by the assessee against the additions made by Ld.A.O before Ld.CIT(A) brought no relief and both the additions were confirmed.

5. Now the assessee is in appeal before Tribunal.

6. At the outset the Ld. Counsel of the assessee submitted with regard to the addition of un accounted receipts of Rs.27,00,000/-, both the lower authorities failed to appreciate that the assessee has not claimed any expenses against these business receipts and further the alleged unaccounted receipts were on account of supplies made by the assessee's brother in law and payment also received by him. Confirmation letter of Shri Manish Jain (brother in law of the assessee) stands filed. Further assessee has also not claimed the tax deducted at source at Rs.54,384/- and nor the impugned amount of Rs.27,00,000/- was ever credited to the bank account of the assessee. The Ld. Counsel prayed for providing one more opportunity to go before the Assessing Officer to produce necessary details in support of the contentions made herein above.

7. Similarly with regard to the addition of Rs.15,52,617/-, it was pleaded that the assessee possesses all necessary documents including the confirmation, bank statement, identity details of the

sundry creditors but these were not available with the assessee at the time of assessment proceedings. Request was made for admitting additional evidences under Rule 46A of the I.T Rules.

8. On the other hand the Ld. Departmental representative raised no objection to the request of the Learned counsel for setting aside all the issues raised in this appeal to the file of the Assessing Officer for deciding afresh.

9. We have heard rival contentions and perused the records placed before us. In the instant appeal two issues are raised by the assessee. Firstly relating to unaccounted contract receipt of Rs.27,00,000/- and secondly for unexplained sundry creditors at Rs.15,52,617/-.

10. From perusal of the submissions by the assessee before the lower authorities and us as well as the paper book filed, we find that the assessee has strongly challenged the unaccounted receipt of Rs.27,00,000/- by way of demonstrating that the amount has never reached to its bank account and nor the tax deducted at source and Rs. 54,384/- has been claimed. Similarly for the unexplained creditors of Rs.15,52,167/- the assessee has pleaded for providing one more opportunity to appear before the Assessing Officer in order to satisfy him with necessary details sufficient enough to prove the identity, genuineness and creditworthiness of the alleged bogus creditors. The revenue has no objection if the assessee is provided one more opportunity to go before the Assessing authority for necessary verification.

11. We therefore in the given circumstances of the case and in the interest of justice set aside all the issues raised in this appeal to the file of Ld. A.O with a direction to admit the additional evidences filed by the assessee under rule 46A of the I.T Rules and also to verify afresh as to whether the assessee actually received the alleged unaccounted sales in his bank account and also to verify the alleged creditors as to whether they are bogus in the nature or not. We also direct the assessee to furnish all the necessary details in support of its claim as mentioned in Ground No.1 and 3 of this appeal. Needless to mention that the assessee will be provided a proper opportunity of being heard.

6. In the result the appeal of the assessee allowed for stastical purpose.

The order pronounced in the open Court on 16.01.2018.

Sd/-

Sd/-

**( KUL BHARAT )  
JUDICIAL MEMBER**

**(MANISH BORAD)  
ACCOUNTANT MEMBER**

दिनांक /**Dated : 16th January, 2018**

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

**Private Secretary/DDO, Indore**

- 1.** Date of dictation : 11/01/2018
- 2.** Date on which the typed draft is placed before the Dictating Member : 12/01/2018
- 3.** Date on which approved draft comes to the Sr.P.S./P.S: 12.1.2018
- 4.** Date on which the fair order is placed before the dictating Member for pronouncement: 15.1.2018
- 5.** Date on which the fair order comes back to the Sr.P.S./P.S.: 16.1.2018
- 6.** Date on which the file goes to the Bench Clerk:17.1.18
- 7.** Date on which the file goes to the Head Clerk:
- 8.** The date on which the file goes to the Assisstant Registrar for signature of the order.
- 9.** Date of Despatch of the Order: