

आयकर अपीलीय अधिकरण, C/'SMC' न्यायपीठ, चेन्नई ।

IN THE INCOME TAX APPELLATE TRIBUNAL  
C/"SMC" BENCH, CHENNAI

श्री. चंद्र पूजारी लेखा सदस्य, के समक्ष ।

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

**I.T.A.No.2393/Mds./2017**

(Assessment Year : 2013-14 )

**M/s.Tararam** HUF,  
6,ISSAC street,  
Chennai 600 003.  
**PAN** AABHT 3906 P  
(अपीलार्थी /Appellant)

**Vs.** The Income Tax officer,  
Non-corporate ward -6(4),  
Chennai-6.  
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Mr.T.Pramod kumar chopda,  
प्रत्यर्थी की ओर से/Respondent by : Mr.B.Sagadevan, JCIT, D.R

सुनवाई की तारीख/ Date of hearing : 19.12.2017  
घोषणा की तारीख /Date of Pronouncement : 22.01.2018

**आदेश / O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal is filed by the assessee, aggrieved by the order of the Learned Commissioner of Income Tax(A)-5, Chennai dated 01.08.2017 pertaining to assessment year 2013-14.

2. The crux of the issue in this appeal is that the Assessee is aggrieved by the order of the Ld. CIT (A), who had erred in sustaining the addition of ₹32,53,693/- as unexplained cash credit u/s.68 of the Act on account of difference between the books of account of the assessee and the parties, namely, M/s.Kamala Textiles, Chennai and M/s.So Design Factory, Bangalore.

3. The brief facts of the case are that the AO during the assessment proceedings found that in respect of following sundry creditors, who had a closing balance of more than ₹5 lakhs:-

| Sl. No. | Name of the sundry creditor     | Closing balance as on 31.03.2013 |
|---------|---------------------------------|----------------------------------|
| 1       | Ashirwad Saree Emporium,Chennai | 5,15,871                         |
| 2       | Kamala Textiles,Chennai         | 19,48,259                        |
| 3       | So design Factory, Banglaore    | 19,78,136.09                     |
| 4       | Chowban Distributors,Bangalore  | 7,32,910                         |
| 5       | Sunny Apparel, Mumbai           | 17,99,489                        |

In response, the assessee filed ledger confirmation from the first 4 parties mentioned above and stated that he did not have the present

address of the fifth party viz. M/s,Sunny Apparel, Mumbai. Further, letters were sent to the 4 parties by Id. Assessing Officer, in respect of whom ledger extracts were furnished by the assessee, seeking confirmation of the closing balance mentioned against each of them. The letter sent to M/s. Ashirwad Saree Emporium, Chennai, returned un-served. The AR stated that the purchases from the party had been reflected in VAT returns and that the payments had been made subsequently in the financial year 2014-15 and that there was no balance outstanding as on 31.03.2015. He also stated that the firm was closed during the same year. Replies were received from Kamala Textiles and So. Design Factory, confirming the following balances:

| S.No.        | Name of sundry creditor  | Closing balance as on 31.03.2013 |                        | Difference in the closing balance (Rs.) |
|--------------|--------------------------|----------------------------------|------------------------|---|
|              |                          | As per assessee (Rs.)            | As Per creditors (Rs.) |   |
| 1            | Kamala Textiles, Chennai | 19,48,259                        | 5,47,900               | 14,00,359                               |
| 2            | Kamala Textiles, Chennai | 19,78,136                        | 1,24,802               | 18,53,334                               |
| <b>Total</b> |                          |                                  |                        | 32,53,693                               |

In spite of several opportunities given, the assessee could not reconcile the difference between the books of account of the assessee and the parties, namely, M/s.Kamala Textiles, Chennai and M/s.So Design Factory, Bangalore. Hence, the Id. Assessing Officer disallowed the above difference in the balances, viz., ₹32,53,693/-, as unexplained credits u/s 68 of the Act. Aggrieved by the order of Id. Assessing Officer, the assessee carried the appeal before the Ld.CIT(A). Before the Ld.CIT(A) also, the discrepancies are continued and the Ld.CIT(A) observed that the assessee had failed to discharge onus cast on him to substantiate his claim. Therefore, Ld.CIT(A) upheld the order of Id. Assessing Officer. Against the order of Ld.CIT(A), now the assessee is in appeal before Tribunal.

4. Before us, the assessee filed additional evidences and also petition for admission of additional evidences as follows:-

| Sl. No. | Particulars  | Page No. |
|---------|--|----------|
| 1       | Ledger extract and copies of purchase Bills of M/s.Kamala Textiles, Chennai along with monthly returns in Form I with Annexure -1 disclosing the purchases under TNVAT Act (July, 12, Aug.,12, | 1 to 69  |

|   |   |        |
|---|---|--------|
|   | Oct.12 to Dec.,12 and Jan.,13)  |        |
| 2 | Ledger extract of M/s.So design Factory ,<br>Bangalore along with monthly returns in Form-I<br>with Annexure disclosing the purchases under<br>TNVAT Act (April,12) | 70.-74 |

In petition, the assessee stated that the trade creditors on account of purchases cannot be considered as unexplained credit u/s.68 of the Act. When the details of purchases are covered under invoices and disclosing the same in the monthly returns and also the assessee filed ledger extract to support the case of the assessee stating that the sundry creditors is on account of purchases made in the regular course of business, hence, the addition may not be treated as unexplained credit u/s.68 of the Act. Further, Id.A.R prayed that the additional evidence in the form of ledger extract of the sundry creditors, purchase bills, statutory monthly returns in Form-I with Annexure -1 with respective months to be accepted to render justice.

5. On the other hand, Id.D.R did not put serious objections for admission of additional evidences.

6. After hearing both the parties and perused the petition on record, admittedly, these additional evidences are very much necessary to decide the case and it is to be verified with reference to the books of accounts of assessee whether the purchases are duly reflected in the books of account of assessee as well as in the books of accounts of the creditors. As such, these are admitted as additional evidences for adjudication.

7. After hearing the both the parties, perusing the materials on record and additional evidences, in my opinion, it is appropriate to remit the entire issue to the file of Id. Assessing Officer with a direction to the assessee to reconcile the parties account in the books of account of the assessee with the corresponding entries in the parties books of account. It is needless to say that the primary duty of the assessee to discharge the burden, that it was duly reflected in books of account of assessee as well as books of party's account. If the assessee failed to properly reconcile the account, then only the AO to treat the un-reconciled items as unexplained credit in the hands of assessee u/s.68 of the Act. With this observation, I remit

this issue in dispute to the file of Id. Assessing Officer for fresh consideration. Hence, this ground of appeal of assessee is partly allowed for statistical purposes.

8. In the result, the appeal of assessee is partly allowed for statistical purposes.

Order pronounced on 22<sup>nd</sup> January, 2018.

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य /ACCOUNTANT MEMBER

Chennai,  
Dated the 22<sup>nd</sup> January, 2018.

K s sundaram.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                          |                              |                         |
|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant   | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT           | 6. गार्ड फाईल/GF        |