

IN THE INCOME TAX APPELLATE TRIBUNAL : 'B' BENCH, KOLKATA

**Before : Shri M. Balaganesh, Accountant Member and
Shri S.S.Viswanethra Ravi, Judicial Member**

ITA No. 63/Kol/2016 A.Y 2009-10

**Income Tax Officer
Ward 2(4), Kolkata**

Vs.

**M/s. Umesh Suppliers
Pvt. Ltd. PAN: AAACU8385P**

[Appellant]

[Respondent]

Appellant by : Shri S. Dasgupta, Addl. CIT, Id.Sr.DR
Respondent by : None appeared

Date of Hearing : 05-03-2018
Date of Pronouncement : 02-05-2018

ORDER

Shri S.S.Viswanethra Ravi, JM:

This appeal by the Revenue is against the order dt. 30-10-2015 of the CIT-A, 1, Kolkata for the A.Y 2009-10.

2. It is reported that neither any one appeared for the assessee nor any application filed for seeking adjournment. Therefore, we proceed to hear the Id.DR and dispose of the appeal on merits and by perusing the material available on record.

3. The only issue is to be decided as to whether the CIT-A is justified in deleting the impugned additions made on account of unexplained credit in the facts and circumstances of the case.

4. After hearing the Id.DR and perusing the material on record, it is noticed that the AO for non production of documentary evidence to establish the identity, capacity of persons and genuineness of the transaction a sum of Rs.54,00,000/- (Rs. 6,00,000 + Rs.48,00,000) credited in the books of account of assessee towards sundry

creditors, namely, M/s. Kishan Tie-up Pvt. Ltd and M/s. Aster Tele Services Pvt. Ltd as unexplained credit as against the claim of current liability and added the same to the total income vide an order u/s. 143(3) of the Act on 29-12-2011.

5. The CIT-A considering the documentary evidences filed before him by the assessee sought remand report from the AO in respect of two parties, M/s. Krishan Tie Up P.Ltd & M/s. Aster P.Ltd & and deleted the addition of Rs. 54,00,000/- as there was no adverse remark in his said remand report by the AO.

6. We find that the CIT-A considering the submissions of assessee sought remand report from the AO regarding said two parties, M/s. Krishan Tie Up P.Ltd & M/s. Aster P.Ltd & and found satisfied that the assessee could prove the identity, creditworthiness and genuineness of transaction as per provisions of section 68 of the Act. We find that the AO issued notices u/s. 133(6) of the Act to both the parties for confirmation of said transaction. In response to which, loan confirmation, bank details, copy of IT Returns were furnished before the AO. The AO in his remand report has not controverted the documentary evidences produced in response to notices issued U/Sec. 133(6) of the Act to substantiate the identity, mode of payment and sources of income/capacity of both the parties above.

Relevant portion of order of CIT-A is reproduced herein below:-

7.1. Grounds of Appeal No.1: This grounds of Appeal is against the addition made by the A.O. of Sundry Creditors amounting to Rs. 54,00,000/- as unexplained cash creditors on the ground that the Assessee should not produce the said creditors before him.

From perusal of the A.O.'s finding, it is observed that there is no dispute on the issue that as contended by the appellant the addition of Rs. 54,00,000/- made by the A.O. as the unsecured creditors were not produced for verification before him during the assessment proceedings to verify their genuineness.

During the appellate proceedings, as per Remand Report of the A.O the Appellant has produced one of the Directors of Sundry Creditor M/s. Krishan Tie UP Pvt. Ltd situated in Kolkata. The statement of the Director, Shri Shashank Agarwal recorded, whereby his identity was verified. In addition supporting evidences i.e. copies of PAN card, Loan Confirmation, copy of Bank Statement, Balance Sheet and IT. Return for relevant A.Y.2009-i0, Details of sundry creditors etc were filed in respect of loan of Rs.6,00,000/- . In respect Rs.48,00,000/- received from M/s. Aster Pvt. Ltd, located at Hyderabad, A.O. had sent notice u/s.133(6) and in compliance information, including loan confirmation, Bank transaction details, copy of Income Tax Returns were furnished before the Assessing officer, as per accounts on record. The A.O. in his Remand Report

has not controverted the documentary evidence produced by the appellant to substantiate the identity, mode of payment and sources of income / capacity of both the above mentioned sundry creditors.

In view of the above discussion and totality of facts of the case, I concur with the Appellant's contention that "As the identity and creditworthiness of both the creditors has been proved and also the genuineness of the transaction has been established", the addition on account of unexplained cash credits aggregating to Rs. 54,00,000/- is unwarranted. The same is hereby deleted. This ground of appeal is accordingly Allowed."

7. In view of above, we are of the view that both the said creditors have proved their identity, creditworthiness and the genuineness of transaction. The CIT-A considering the remand report of AO deleted the impugned addition made on account of unexplained credit of Rs.54,00,000/-. We find no infirmity in the order of CIT-A and it is justified. Therefore, the ground nos. 1 & 2 raised by the revenue in the appeal are dismissed.

8. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 02 -05-2018

Sd/-
M. Balaganesh
Accountant Member

Sd/-
S.S. Viswanethra Ravi
Judicial Member

Dated :02-05-2018

PP(Sr.P.S.)

Copy of the order forwarded to:

1. Applicant/Department : The I.T.O. Ward 2(4), Kolkata, Aaykar Bhavan, 7th Floor, Room No. 22,P-7 Chowringhee Square, Kolkata-700 069.
2. Respondent/Assessee: M/s. Umesh Suppliers Pvt. Ltd, 7th Floor, 16 Ganesh Chandra Avenue,Kolkata-700 013.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order

Sr.P.S,
Head of Office
ITAT Kolkata