

**IN THE INCOME TAX APPELLATE TRIBUNAL : 'D' BENCH, KOLKATA**

**Before : Shri J. Sudhakar Reddy, Accountant Member and  
Shri S.S.Viswanethra Ravi, Judicial Member**

**ITA No. 2386/Kol/2016**

A.Y 2012-13

A.C.I.T, Circle-40,  
Kolkata

[Appellant]

Vs.

The W.B. State Consumers'  
Co-Op Federation Ltd.

PAN: AAAAW1196J

[Respondent]

**C.O No. 11/Kol/2017**

[ A/o ITA No. 2386/K/2016]

A.Y 2012-13

The W.B. State Consumers'  
Co-Op Federation Ltd.

[Cross Objector]

Vs.

A.C.I.T, Circle-40,  
Kolkata

[Department]

**ITA No. 108/Kol/2018**

A.Y 2013-14

A.C.I.T, Circle-40,  
Kolkata

[Appellant]

Vs.

The W.B. State Consumers'  
Co-Op Federation Ltd.

[Respondent]

**C.O No. 29/Kol/2018**

[ A/o ITA No.108/K/2016]

A.Y 2013-14

The W.B. State Consumers'  
Co-Op Federation Ltd.

[Cross Objector]

Vs.

A.C.I.T, Circle-40,  
Kolkata

[Department]

Appellant/Department by  
Respondent/ Department by

: Shri A. Bhattacharjee, Addl. CIT, Sr.DR  
: Shri L.K. Kanoongo,FA, Id.AR

Date of Hearing : 16-05-2018  
Date of Pronouncement : 03-08-2018

**ORDER**

**Shri S.S.Viswanethra Ravi, JM:**

Above two appeals of the Revenue and corresponding Cross Objections by the Assessee are against the orders dt. 22-09-2016 and 18-10-2017 of the CIT-A, 12, Kolkata for the A.Ys 2012-13 and 2013-14 respectively.

2. Since the issues raised in the appeals and cross objections are based on same set of identical facts and common, therefore, with the consent of both the parties, we proceed to hear both the appeals and cross objections together and, we dispose of the same by a consolidated order for the sake of convenience.

ITA No. 2386/Kol/2016 A.Y 2012-13- by the revenue

3. First we shall take up the appeal of revenue in ITA No. 2386/Kol/2016 for the A.Y 2012-13 by the revenue.

4. The only issue in this appeal is to be decided as to whether the CIT-A is justified in deleting the addition of Rs. 2,93,79,530/- made on account of difference in purchase made by the AO violating Rule 46A of the IT Rules 1962 in the facts and circumstances of the case.

5. The Id. DR submits that the AO found difference in purchase of goods. For failing to establish the genuineness by producing any supporting documents i.e ledger and proof of payments etc, the AO added an amount of Rs.2,93,79,530/- to the total income of assessee. He also submits the CIT-A deleted the said addition taking into considerations the submissions of assessee without affording any opportunity to the AO for verification of re-conciliation statements filed by the assessee before the CIT-A. The Id.DR relied on the order of the AO.

6. On the other hand, the Id. AR submits that the assessee filed re-conciliation of purchase by its letter dt. 20-03-2015 before the AO. But, however, without considering the same, the AO arbitrarily added the entire purchase to the total income of assessee. The Id.AR referred

to submissions made before the CIT-A in the first appellate proceedings of para 3.1 of the said order and argued that the CIT-A considering the submissions as well as item-wise purchase and remand report of the AO, deleted the addition and referred to para 3.2 of the said order. He relied on the order of the CIT-A.

7. Heard both the parties and perused the material available on record. We find that the assessee is a co-operative society. It conducts its activities/business by name and style as "West Bengal State Consumers' Co-operative Federation Ltd." Itemwise and partywise reconciliation statement regarding the purchase was submitted before the CIT-A. On examination of the same, the CIT-A sought remand report from the AO. The AO reiterated the same view as made in the original assessment proceedings by observing that the reconciliation statement is not sufficient without there being any documentary evidence i.e. bills and vouchers did not agree with the contentions of assessee in the remand proceedings. In the rejoinder, we find that the contention of the assessee was that, assessee would enter into transaction by proper note sheet after obtaining proper sanction of the authorities at various levels and the said note sheets are highly reliable and scrutinized from time to time by various govt. authorities including C & AG. Because of high volume of transactions, the bills are sorted out and it is not possible to produce the same. The CIT-A considering the difficulties in getting/producing the bills and vouchers as demanded by the AO for verification held that notings in the revised re-conciliation held to be valid. Relevant portion para 3.1 to 3.4 of the CIT-A order is reproduced herein below:-

*3.1 The appellant has submitted the following written submissions:*

*"As already submitted, the appellant being state level apex Consumers' Cooperative Society, it is one of the implementing agencies for various welfare schemes of the Government. It strictly operates within the parameters set by Govt. of West Bengal. The item wise purchase is already given above in statement of facts The appellant also submitted party wise details (a copy enclosed marked Annexure - A) and subsequently; broad reconciliation statement with total purchases was also submitted (a copy enclosed marked Annexure -B: No other information was sought during course of hearing. However, without allowing further opportunity, sum of Rs 2,93,79,530 has been disallowed out of purchases. It is submitted that all the accounts of the appellant are*

fully reconciled. An itemwise and partywise reconciliation statement is submitted herewith marked Annexure - C. As this is fresh statement submitted before your honour, the appellant requests you to accept the same. It is submitted that the purchases having been fully reconciled, the act of the learned A.O disallowing a sum of Rs. 2,93,79,530.00 is wrong and it is prayed that the same may be allowed in appeal. Later on the appellant was informed telephonically, by the learned A.O. that your honour asked for a remand report on the appellant submission and the appellant was accordingly asked to reconcile the advances vis-a-vis purchases of NGR Wheat along with the supporting evidence. The case was adjourned to 5<sup>th</sup> September,2016. The Appellant in response to said requisition filed a letter alongwith all the relevant note sheets. The said letter read as follows:- "This refers to the discussion during the course of hearing of Remand Proceedings on 2910812016, wherein we were asked to reconcile the difference of Rs 2,78,59,583 and produce necessary evidence of advances. In this connection we like to submit as follows:-

That at the time of hearing at the assessment stage, we, submitted a letter alongwith a reconciliation statement rein we tried to reconcile the difference in purchases. A copy of the said statement is enclosed for your ready reference. Although we took proper care to prepare the said statement but there crept in certain clerical errors and the reconciliation was thus not proper. The said clerical errors are. explained below:

- a) There was a mistake in totaling of purchases details, which were submitted vide our letter no. 19121/- 4212012-13 dated 09109/2014. The same should be Rs 3,38,11,06,453 instead of Rs 3,38,19,64.678 as shown in reconciliation statement.
- b) There was mistake in purchase figure shown against M/S K. B Enterprise. By mistake the figure of payment of Rs. 14.26.062 has been shown as purchase figure instead of actual purchase of Rs 16.12,708, thus there was a difference of Rs. 186.646.
- c) The adjustment of payment through CC A/c no.107 was shown at Rs. 1,21, 71,823 but the same should be Rs 1,06,5/,876. Similarly adjustment of Interest ofRs. 5,70.147 on CMR with Damdama was not considered at all.
- d) There were certain credit adjustments in purchases of various items amounting to Rs 34,21,8641- which were not considered at all in the said statement.
- e) There was cash purchases of Rs 3,56,112/- which were not considered at all in the said reconciliation statement.
- f) There was a reversal of double entry of purchases of Rs 1,39.60,000/- in Dakshin Dinajpur and Rs 6.07,448/- in Damdama Union which were not considered in reconciliation statement.
- g) There were bank charges of Rs 9,746 deducted from party while crediting their account which was not considered at all.
- h) There was a net amount of Rs 33,07,4851- on account of VAT input tax (ITC) and bank charges which was although credited to sundry creditors account but not debited in purchase account but debited/credited to Separate account.

2) The figure of Rs 2,78,59,583 was a balancing figure. After correcting the above mistakes the balancing figure of the statement should be Rs 5,04,11,900 on account of adjustment of advances in following accounts:-

a) DakshinDinajpur-	Rs 3,88,78,900
b) Damdama Union-	Rs 53,27,000
c) Gangarampur-	<u>Rs 62,06,000</u>
	<u>Rs 5,04,11,900</u>

The final reconciliation statement after considering the above clerical errors should be as follows:-

Purchase as per Trading Account	3,75,48,63,298.00
Add:- Credit Figure in Purchase Ledger	34,21,864.00
(as per para 1 (d) above)	
Less :- Reversal of Double Entry Dakshin Dinajpur	1,39,60,000.00
(as per para 1 (f) above)	

Less :- Reversal of Double Entry Damdama (as per para 1 (f) above)		6,07,448.00
Less :- Total ITC & Bank Charge Adjustment in Creditors Ledger (as per para 1 (h) above)		33,07,485.00
Less :- Cash Purchase not included purchase list submitted (as per para 1 (e) above)		3,56,112.00
Total		3,77,58,03,983.00
Purchase Above Rs.1,00,000.00 (as per para 1( a) above)	3,38,11,06,453.00	
Purchase Below Rs.1. 00, 000. 00	5,14,772.00	
Purchase from K.B.Enterprise wrongly show as Rs.14,26,062 instead of Rs.16,12,708 ( as per para 1(b) above)	1,86,646.00	
Adjusted Against Advance		
Confiscated Goods 13.5%	53,13,163.00	
Confiscated Goods 4%	3,55,57,599.00	
Confiscated Goods	11,56,010.00	
Purchase Rice (OMSS)	2,28,85,810.00	
Purchase Retail Wheat	26,05,55,000.00	
Adjusted Against Interest on CC A/c-107 Receivable against purchase of Wheat	58,84,860.00	
Adjusted Against Cash Credit A/c -107 against purchase ( as per para 1 ( c) above)	1,06,51,876.00	
Bank Charges ( as per para 1(g) above)	9,746.00	
Adjusted against Bank Guarantee Fees for Purchase	10,00,000.00	1,81,16,629.00
Difference		5,04,11,901.00
Reconciliation of above difference:-		
Dakshin Dinajpur	3,88,78,900.00	
Damdama	53,27,000.00	
Gangarampur (Net of Rs.57,62,000)	62,06,000.00	5,04,11,900.00

The necessary xerox copies of notings in our order sheet in respect of the above advance payments/adjustments are enclosed for your perusal. "

As per our letter no. 1541/1-42/2012-13 dated 2/9/2016 we have reconciled the difference in purchases via-a-vis adjustment of advance. The amount of difference due to advance adjustment in NGR Wheat finally worked out as follows:-

Amount(Rs.)	
Dakshin Dinajpur	3,88,78,900
Damdama	53,27,000
Gangarampur	<u>62,06,000</u>
	<u>5,04,11,900</u>

Copies of bills against which the above adjustment is made are now enclosed for your verification. Our appeal is fixed for hearing on 21/9/2016, Please note that we will be producing all these bills before CIT(A) on that date. We, therefore, now request you to please send an amended remand report after verification of the said bill on or before the above date for consideration of learned CIT(A)-12, Kolkata in the above appeal case. "

It is, therefore, now submitted that the appellant has been able to adduce sufficient supporting evidences in support of genuineness of the claim of purchases/payment of advances and prays your honour to delete the addition of Rs. 2,93,79,530/-."

*The Issue was remanded to the AO for examination and report. The AO in his remand stated as follows:" The assessee's Authorised Representative came on 29.08.2016 and discussion was held on the alleged issue of advanced against NGR-Wheat of Rs. 2,78,59,583. He was asked to produce the original bill vouchers of the said transaction which were also asked for submission at the time of assessment. Assessee submitted a written explanation (enclosed) of the above mentioned amount. Wherein he explained that due to various clerical mistakes the difference had occurred. He had submitted only reconciliation statement without any documentary evidence like bill vouchers against the correct amount. In the absence of such documentary evidence the undersigned is not in agreement with the view of the assessee."*

*3.3. The assessee filed a rejoinder on the remand report in the following:*

*We acknowledge receipt of copy of remand report sent by learned Assessing Officer, Circle-40, Kolkata in our above appeal case. In this connection we like to submit that at the time of hearing of the case in the remand proceeding we were asked to reconcile the advance of Rs. 2,78,59,583/- and submit the supporting evidence. The remand proceeding was adjourned to 05/09/2016. We duly reconciled the said advance and submitted copies of note sheets for sanction of the said advances and its subsequent adjustment. As already informed to your honour, ours is a state level consumer's cooperative society and engaged in implementation of various relief schemes of the Government. Government of West Bengal is our major shareholder and other shares are held by district level cooperative societies. We cannot enter into any transaction without preparing proper note sheet and obtain proper sanction of the authorities at various levels. These note sheets are highly reliable and scrutinized from time to time by various Government authorities including C.A.G. The learned assessing officer, however, did not look into these note sheets at all and insisted to produce the related bills. However, because of high volume of transactions, the bills are stored in several gunny bags and it was not possible to trace and produce the same at this short notice. The learned Assessing officer, however, without allowing any further opportunity sent you the remand report. A copy of letter addressed to Assessing officer alongwith the copies of note sheets submitted before A.o. is enclosed for your ready reference and kind perusal - Annexure I. However, we have submitted copies of all the relevant bills and voucher for advance payments vide our letter dated 19/09/2016 with a request to submit supplementary Remand report. Xerox copy of the said letter alongwith copies of all relevant bills and voucher for advance payment is enclosed marked annexure -II. We further like to submit that the learned A. O. has nothing to state regarding other addition of Rs. 15,19,947/- on account of purchases and other grounds of appeal.*

*We, therefore, pray that there is no justification of disallowing of our claim of purchases of RS 2,93,79,530/- and that the same and other grounds of appeal may be allowed in appeal and for this act of kindness we shall be ever grateful to you.*

*3.4 I have considered the facts of the case and the submissions of the appellant as well as the remand report and the rejoinder to the remand report filed by the appellant during the course of the hearings. A sum of Rs 2,93,79,530 has been disallowed out of purchases by the AO on the ground that as he has not produced any supportive document like ledger / proof of payment etc. The appellant has submitted their revised reconciliation as evident from their submissions noted above. The main point made by the AO in his remand report is "He had submitted only reconciliation statement without any documentary evidence like bill vouchers against the correct amount. In the absence of such documentary evidence the undersigned is not in agreement with the view of the assessee." The appellant in their rejoinder to the remand report has stated that "We duly reconciled the said advance and submitted copies of note sheets for sanction of the said advances and its subsequent adjustment. As already informed to your honour, ours is a state level consumer's cooperative society and engaged in implementation of various relief schemes of the Government. Government of West Bengal is our major shareholder and other shares are held by district level cooperative societies. We cannot enter into any transaction without preparing proper note sheet and obtain proper sanction of the authorities at various levels. These note sheets are highly reliable and scrutinized from time to time by various Government authorities including C.A.G. The learned assessing officer, however, did not look into these note sheets at all and insisted to produce the related bills. However, because of high volume of transactions, the bills are stored in several gunny bags and it was not possible to trace and produce the same at this short notice. The learned Assessing officer, however, without allowing any further opportunity sent you the remand report. A copy of letter addressed to Assessing officer alongwith the copies of note sheets submitted before A. O. is enclosed for your ready reference. and kind perusal - Annexure 1. However, we have submitted copies of all the relevant bills and voucher for advance payments vide our letter dated 19/09/2016 with a request to submit supplementary and report. Xerox copy of the said letter alongwith copies of all relevant bills and voucher for advance payment is enclosed marked annexure -11. We further like to submit that the learned A.O. has nothing to state regarding other addition of Rs. 15,19,947/- on account of purchases and other grounds of appeal "*

*I have seen the submissions of the appellant and find that the AO in his remand report has not completed his investigations in a proper manner. The appellant was always ready to submit all vouchers as demanded. It cannot be expected from the Appellant that gunny bags of vouchers would be brought to the office for verification. He should have asked for some vouchers for a test check basis. This has been done and produced before me hence I find force in the contentions of the appellant. All their sanctions are noted duly in their notings which matches with their revised reconciliation. I find no basis for the disallowance in the purchases and hereby delete the amount of Rs.2,93,79,530/- which was disallowed by the A.O. Hence the amount is deleted."*

8. In view of above and the discussion made above in para-6, we find no infirmity in the impugned order of the CIT-A and it is justified. Ground raised by the revenue is dismissed.

9. C.O. No. 11/Kol/2017 arising out of ITA No. 2386/Kol/2016- by the assessee

C.O. No. 11/Kol/2017

10. We find the Cross Objection filed by the assessee is in supportive of the order of the CIT-A, wherein we upheld the order of the CIT-A in the aforementioned paras, therefore, the C.O filed by the assessee requires no adjudication. Hence, it is dismissed.

ITA No. 108/Kol/2018- by the revenue

11. In this appeal, we find that the issue raised is similar to appeal in ITA No. 2386/Kol/2016 filed by the revenue, wherein we upheld the order of the CIT-A. Following the same, we dismiss grounds raised by the revenue.

C.O No. 29/Kol/2018 arising out of ITA No. 108/Kol/2018- by the assessee.

12. The Cross Objection filed by the assessee is in supportive of the order of the CIT-A, wherein we upheld the order of the CIT-A. Therefore, the C.O filed by the assessee requires no adjudication. Hence, it is dismissed.

13. In the result, the appeals filed by the revenue and corresponding cross objections filed by the assessee are dismissed.

Order pronounced in the open court on 03-08-2018

Sd/-  
**J. Sudhakar Reddy**  
**Accountant Member**

Sd/-  
**S.S. Viswanethra Ravi**  
**Judicial Member**

Dated : 03-08-2018

\*\*PP(Sr.P.S.) Copy of the order forwarded to:

1. Appellant/Revenue: Asstt. Commissioner of Income-tax,  
Circle-40, Kolkata, 2<sup>nd</sup> Floor, 3 Govt. Place (W),  
Kolkata-700 001.
2. Respondent/Assessee: The West Bengal State Consumers'  
Co-operative Federation Limited, P-1 Hide Lane, Bow Bazar, Kolkata-  
700 073.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy, By order Sr.P.S,H.O.O, ITAT.Kol