

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी) न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL , 'A' (SMC) BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकर अपील सं./I.T.A.No.489/Chny/2018

(निर्धारण वर्ष / Assessment Year: 2012-13)

Smt. Priya Choudhry, Propx: M/s. Praveen Electricals, No.34/5, Strotten Muthiah Mudali Street, Sowcarpet, Chennai – 600 079.	Vs	The Income Tax Officer, Non-Corporate Ward – 5(4), Chennai.
PAN:AHGPC9223N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Shri B. Sagadevan, JCIT

सुनवाई की तारीख/Date of hearing	:	16.07.2018
घोषणा की तारीख/Date of Pronouncement	:	17.09.2018

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the learned Commissioner of Income Tax(Appeals)-5, Chennai, dated 23.01.2018 in ITA No.42/CIT(A)-5/15-16 for the assessment year 2012-13 passed U/s. 250(6) r.w.s. 143(3) of the Act.

2. The assessee has raised several grounds in her appeal however the crux of the issue is that the Ld.CIT(A) has erred in

sustaining the order of the Ld.AO who had made addition of Rs.18,24,380/- towards unconfirmed trade creditors.

3. The brief facts of the case are that the assessee is an individual engaged in business as dealer in electrical goods under the name M/s.Praveen Electricals, filed her return of income for the assessment year 2012-13 on 29.09.2012 declaring total income of Rs.7,31,250/-. The case was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 08.08.2013. Finally assessment order was passed U/s.143(3) of the Act on 30.03.2015 wherein the Ld.AO made several additions against which one of the addition pertains to disallowance of unconfirmed trade creditors amounting to Rs.18,24,380/-.

4. During the course of scrutiny assessment proceedings, it was observed by the Ld.AO that the assessee had claimed to have outstanding balance of Rs.18,24,380/- from M/s. ESS EN VEE Trading Company. In order to verify the veracity of the claim of the assessee, the Ld.AO sent letter to M/s. ESS EN VEE Trading Company, which was returned un-served with postal remarks "left". Since the assessee had not produced the confirmation statement

from M/s. ESS EN VEE Trading Company and further the letter sent to them was returned un-served, the Ld.AO opined that the sundry creditor is bogus. Therefore the Ld.AO added the amount of Rs.18,24,380/- as unconfirmed trade creditor in the hands of the assessee without giving due weightage to the financial statement and the Income Tax return of M/s. ESS EN VEE Trading Company submitted by the assessee before him.

5. On appeal the Ld.CIT(A) confirmed the order of the Ld.AO by observing as under:-

“7.5 In the present case the trading liability Rs.18,24,300/- in the name of M/s. Ess En Vee Trading Co was outstanding as on 31/3/2012. M/s. Ess En Vee Trading Co., had filed Returns of Income upto A.Y. 2010-11 relevant to the F.Y. 2009-10 only. The assessee did not furnish details regarding (i) when the goods were purchased with respect to this trading liability and (ii) when the liability was repaid.

Hence respectfully following the above stated decision of the hon'ble High Court of Rajasthan, the addition of Rs.18,24,300/- towards trade credit in the name of M/s.Ess En Vee Trading Co is upheld.”

6. Before us the Ld.AR submitted that the assessee had furnished the address, financial statements and copy of the income tax return of the sundry creditor before the Ld.AO which was also on record before the Ld.CIT(A), however the same was not given due weightage by

the Ld.Revenue Authorities while deciding the case against the assessee. The Ld.AR further pleaded by stating that M/s. ESS EN VEE Trading Company had presently discontinued the business and therefore unavailable in the address and the assessee does not know about the present whereabouts. Hence it was pleaded that the addition made by the Ld.Revenue Authorities may be deleted. The Ld.DR on the other hand relied in the orders of the Ld.Revenue Authorities and argued in support of the same.

7. We have heard the rival submissions and carefully perused the materials available on record. From the facts of the case and the orders of the Ld.Revenue Authorities, it is evident that the assessee had furnished the details of its sundry creditor M/s. ESS EN VEE Trading Company such as address, PAN number, copy of the financial statement and the copy of the income tax return. It is further apparent that the Revenue has not made any effort to summon M/s. ESS EN VEE Trading Company, even though they had enough details about them because M/s. ESS EN VEE Trading Company is also an assessee filing return of income. It is further apparent that M/s. ESS EN VEE Trading Company had discontinued its business and therefore closed its office. In this situation, the assessee cannot

be expected to keep track about the whereabouts of M/s. ESS EN VEE Trading Company for prolong period. Since the assessee had given sufficient information about its sundry creditors to the Revenue, the onus has now shifted on the Revenue to make detailed enquiry and prove the facts otherwise, which the Ld.Revenue Authorities have miserably failed. In this situation, we are of the considered view that additions cannot be made in the hands of the assessee by treating the sundry creditor and the transaction to be bogus. Accordingly we hereby direct the Ld.AO to delete the addition of Rs.18,24,380/- made by the Ld.AO by treating M/s. ESS EN VEE Trading Company as unconfirmed trade creditor.

8. In the result the appeal of the assessee is allowed.

Order pronounced on the 17th September, 2018 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(Duvvuru RL Reddy)

न्यायिक सदस्य /Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 17th September, 2018

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य / Accountant Member

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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