

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "D", KOLKATA**

**BEFORE SH. J.SUDHAKAR REDDY, ACCOUNTANT MEMBER &
SH.S.S.VISWANETHRA RAVI, JUDICIAL MEMBER**

**ITA No.323/KOL/2018
(ASSESSMENT YEAR-2012-13)**

M/s. Bengal Sunny Rock Estates Housing Development Co.Ltd., Block-AG27, Sector-2, Salt Lake City, Kolkata-700091. PAN-AADCB1091Q	vs	ITO, Ward-2(2), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
(Appellant)		(Respondent)
Appellant by	Sh. Soumitra Choudhury, Adv. & Sh. J.Chakrabarty, Adv.	
Respondent by	Sh. S.Halder, Sr.DR	
Date of Hearing	14.01.2019	
Date of Pronouncement	18.01.2019	

ORDER

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

This appeal filed by the assessee against the order dated 05.12.2017 passed by CIT(A)-1, Kolkata u/s 143(3) of the Income Tax Act, 1961 (in short "Act") for AY 2012-13.

2. This appeal is filed with a delay of 13 days and on perusal of the petition and hearing of both the parties, we find the reasons stated by the assessee are bonafide which really prevented the assessee presenting this appeal in time. Therefore, the delay of 13 days are condoned.

3. The only issue is to be decided as to whether the CIT(A) is justified in confirming the addition made in respect of two parties on account of unsecured loan creditors.

4. Heard both parties and perused the material available on record. The AO in the assessment proceedings added an amount of Rs.12,00,000/- for not

verifying in a proper way. The same was challenged before the CIT(A). On examination of submissions by the assessee, the CIT(A) sought remand report from the AO. The AO submitted its remand report vide report dated 19.05.2017. On perusal of the said remand report, we find that the AO issued notices u/s 133(6) of the Act and in pursuance of which the parties by name M/s Gunkali Commodities Pvt.Ltd. & M/s. Sunny Rock States Housing Development Co.Ltd. gave replies. It is observed that the AO cross-verified from the books of the assessee as well as from the loan creditors regarding the alleged unsecured loan of Rs.5,00,000/- and Rs.7,00,000/- respectively totaling to Rs.12,00,000/- and found correct. It brought to our notice by the Ld.AR that without considering the same, Ld.CIT(A) confirmed the addition in respect of said amount. Ld.DR submitted that there is a mistake in the Remand Report whereby the CIT(A) did not look into the said Remand Report. On perusal of the order of CIT(A), It is noticed that the CIT(A) confirmed the addition made on account of unsecured loan by observing that mere filing of income tax file, opportunity to the creditors is not enough to prove the genuineness and creditworthiness and the identification of the creditors. Ld.AR placed on record the Remand Report dated 19.05.2017 which was stated to have been received by the Office of CIT(A) on 19.05.2017 and it is noted that the AO clearly said that the unsecured loan of Rs.12,00,000/- have been cross-verified from the books of accounts of the assessee as well as from the loan creditors of M/s. Gunkali Commodities Pvt.Ltd. & M/s. Sunny Rock States Housing Development Co.Ltd. and transactions relating to the said amount are found to be correct. The relevant portion is reproduced herein below for ready-reference:-

“Vide your above referred letter you have called for a remand report in the case of M/s. Bengal Sunny Rock States Housing Development Co.Ltd. for the A.Y. 2012-13. It is seen from records that the reason of scrutiny of this case was increase of large unsecured loans. The balance sheet for the A.Y. 2011-12 and 2012-13 reveals that there was increase of unsecured loan of Rs.12,00,000/- during the financial year 2011-12. However, A.O. without verifying unsecured loan in a proper way, made addition to the tune of Rs.14,93,12,469/- which was the closing balance as on 31.03.2012.

On receipt of your direction, the undersigned had issued notice u/s 133(6) dated 14/03/2017 to the unsecured loan creditors. Accordingly, all the loan creditors have furnished their replies on different dates before the undersigned. On verifying the replies of the loan creditors, it reveals that during the year the assessee had taken unsecured loan of Rs.5,00,0000/- from M/s Gunkali Commodities Pvt.Ltd., and Rs.7,00,000/- from M/s. Sunny Rock Estates and Development Pvt.Ltd. This unsecured loan of Rs.12,00,000/- have been cross verified from the books of accounts of the assessee as well as from the loan creditors as stated above and found correct.”

5. As discussed above and in the light of remand report and in our opinion, it appears that the observation of the CIT(A) is contrary to the Remand Report. Thus, the order of the CIT(A) is not justified, the addition confirmed by the CIT(A) is deleted. Thus, grounds raised by the assessee are allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 18.01.2019.

Sd/-

**(J.SUDHAKAR REDDY)
ACCOUNTANT MEMBER**

Date:-18.01.2019

Amit Kumar

Copy forwarded to:

1. Appellant- M/s. Bengal Sunny Rock Estates Housing Development Co.Ltd., Block-AG27, Sector-2, Salt Lake City, Kolkata-700091.
2. Respondent- ITO, Ward-2(2), Aayakar Bhawan, P-7, Chowringhee Square, Kolkata-700069.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

Sd/-

**(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER**

By order

**AR/H.O.O
ITAT, KOLKATA**