

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DELHI BENCH: 'SMC', NEW DELHI**  
**BEFORE SH. H.S. SIDHU, JUDICIAL MEMBER**

ITA No. 1216/Del/2018  
Assessment Year: 2013-14

TAYAL CONCAST (P) LTD.,  
C/O SH. ASHISH AGARWAL, ADV.,  
183/2, N.C. LINES,  
MUZAFFARNAGAR-251001  
**(PAN: AABCT1327P)**

VS.

ITO, WARD 2(4),  
MUZAFFARNAGAR

**(APPELLANT)**

**(RESPONDENT)**

Assessee by : Sh. Prem Prakash, Advocate  
Revenue by : Sh. SL Anuragi, Sr. DR.

**ORDER**

The Assessee has filed the Appeal against the Order dated 05.12.2017 of the Ld. CIT(A), Muzaffarnagar pertaining to assessment year 2013-14 on the following grounds:-

- i) That the order is against law and facts on record.
- ii) That Ld. CIT(A) was wrong in not accepting credits of Rs. 10,64,650/- without any base.
- iii) That the Ld. CIT(A) was wrong in not accepting sundry creditors or Rs. 4,15,598/- without any base.

2. The brief facts of the case are that assessee filed return of income on 29.9.2012 declaring loss of Rs. 1,73,420/-. The case was selected for compulsory scrutiny and system. The notice u/s. 143(2) of the Income

Tax Act, 1961 (In short "Act") dated 26.9.2014 was issued. Again notices u/s. 143(2)/142(1) of the Act were also issued on 12.8.2015 to the assessee. Further, notice u/s. 142(1) of the Act, alongwith detailed questionnaire was issued to the assessee on 12.10.2015 and in compliance to the same, requisite details / evidences were filed which were considered during the course of assessment proceedings. Computerized books of accounts produced alongwith the bills and vouchers have been examined. The AO passed the assessment order u/s. 143(3) of the Act dated 23.3.2016 and made the additions and assessed the income of the assessee at Rs. 16,25,740/-. Against the said assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 05.12.2017 has partly allowed the appeal of the assessee. Aggrieved with the impugned order, assessee is in appeal before the Tribunal.

3. During the hearing, Ld. counsel for the assessee has stated that Ld. CIT(A) has wrongly accepted the credits of Rs. 10,64,650/- without any basis and also not accepted the sundry creditors of Rs. 4,15,598/- without any basis. To support his contention, he filed a Paper Book containing pages 1-38 in which he has attached the copy of written submissions; copies of a/c of purchase payable; copies of old sundry creditors; assessment order for AY 2009-10; 255 Taxman 305 (SC); 253 Taxman - 117 (All.); 60 TTJ 674 (Del.). Hence, he requested to delete the addition confirmed by the Ld. CIT(A) and allow the appeal of the assessee, after considering the aforesaid Paper Book.

4. On the other hand, Ld. DR relied upon the order of the Ld. CIT(A) and stated that he has passed a well reasoned order, which does not need any interference.

5. I have heard both the parties and perused the records especially the impugned order as well as the Paper Book filed by the assessee. As regards confirmation of addition in respect of creditor M/s Paras & Company, Agra amounting to Rs.1064650/- is concerned, I note that this creditor has been created On account of purchases made during the year. The assessee has failed to provide the complete details in respect of the said creditor during the assessment proceedings and therefore the same has remained unverified. It has been claimed that sales of Rs.856131/- have been made to the said entity in FY 2013-14 and cash payments have been made for Rs.208469/- in FY 2014-15 to square up the credit. It is clearly observed by the AO that the assessee has failed to furnish supporting documents to prove the genuineness of sundry creditor. The submission of assessee for making sale and cash payments to it in subsequent FYs. has remained unsubstantiated and is without documentary evidence. It is strange that on one hand that the AR states that there addresses are not available as the creditors are old on the other hand it is claimed that cash payments and sales have been made to them. In the circumstances it was rightly held by the Ld. CIT(A) that the AO was justified to make addition of Rs. 10,64,650/-, hence, he confirmed the same as on account of unverified purchases u/s 37 of the Act, which does not need any interference on my part, hence, I uphold

the action of the Ld. CIT(A) on the issue of dispute and reject the ground raised by the assessee.

5.1 As regards additions of Rs. 4,15,598/- is concerned i.e. in respect of M/s Sai Traders Rs. 1,23,388/-; M/s Satish Goyal Depot Rs. 1,19,100/- and M/s Savitri Coal Depot Rs. 1,73,100/-, I find that these creditors have been created on account of purchases made in FY 2008-09 and have been brought forward since then. The assessee has failed to provide the complete details in respect of the said creditors during the assessment proceedings and therefore the same have remained unverified to show their existence and claim. The submission of the assessee for making cash payments to them in FY 2014-15 has remained unsubstantiated and without documentary evidence. It is strange that on one hand the AR states that their addresses are not available as the creditors are old on the other hand it is claimed that cash payments have been made to them. It is revealed from these facts that the assessee has obtained benefit by cessation of these liabilities as there is no evidence on record to show that these creditors have even made claim to recover the outstanding balances from the assessee. It is not relevant that assessee, has shown these credits payables in its books of account, during the year. The overall facts of the case and surrounding circumstances are enough to show that these credit balances have not been claimed by these creditors and thus there is cessation of liability on this account. In the circumstances, Ld. CIT(A) has rightly held that AO was justified to make additions of Rs.123388/-, Rs.119100/- and 173110/- thus amounting to Rs. 4,15,598/-, hence, he

confirmed the same u/s. 41(1) of the Act, which does not need any interference on my part, hence, I uphold the action of the Ld. CIT(A) on the issue of dispute and reject the ground no. 2 raised by the assessee.

6. In the result, the Appeal of the Assessee is dismissed.

Order pronounced on 18-02-2019.

**Sd/-**

**[H.S. SIDHU]  
JUDICIAL MEMBER**

Date: 18/02/2019

**SRBhatnagar**

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1. Appellant 2. Respondent 3. CIT 4. CIT (A) 5. DR, ITAT

By Order,

Assistant Registrar, ITAT, Delhi Benches