

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 630/Hyd/2018 and SA No. 106/Hyd/18
Assessment Year: 2014-15

Maytas – CTR (JV),
Hyderabad.

vs. Asst. Commissioner of
Income-tax,
Circle – 14(1), Hyderabad.

PAN – AAAAM9742N

Appellant

Respondent

Assessee by: Shri K.C. Devdas
Revenue by: Shri Nilanjan Dey

Date of hearing: 08/02/2019
Date of pronouncement: 20/02/2019

ORDER

PER S. RIFAUR RAHMAN, AM:

This appeal filed by the assessee is directed against the order of CIT(A) – 6, Hyderabad, dated, 01/02/2018 for AY 2014-15.

2. Brief facts of the case are that the Assessee, filed its return of income for the AY 2014-15 on 27/10/2014, declaring total income of Rs. 73,80,090/-/-, which was processed u/s 143(1) of the Income-tax Act, 1961 (in short 'the Act'). Subsequently, the case was selected for scrutiny under CASS and notices u/s 143(2) & 142(1) were issued on 13/01/2015. In response, the AR of the assessee, filed the required information.

2.1. The AO observed that as per the notes to financial statements for the period ending March 2014, the creditors

(i.e. sub-contractors) shown at Rs.43,66,08,192/- as on 31.3.2014, which stood at Rs.25,20,26,622/ - for the corresponding period as on 31.3.2013. Thus, there was an increase of Rs.18,45,81,570/- in sundry creditors. Whereas the sub-contract expenses debited in the profit & loss account for the period ending 31.3.2014 are Rs.14,55,76,838/-. There is a difference of Rs.3,90,05,332/- in respect of creditors, for which neither the assessee shown the said difference as expenses nor as work-in-progress in the profit & loss account. Therefore, the AO issued a show cause letter on 20.12.2016 to the assessee as to why the increase in sundry creditors to the tune of Rs.3,90,05,332/ shall not be treated as unexplained and added to the total income.

2.2 In reply, the assessee vide its letter dated 26.12.2016 submitted a summary of increase in sundry creditors stating that the difference is on account of (a) BG commission paid by the partner IECCL on behalf of Joint Venture (b) payments made by IECCL on behalf of JV towards salaries & wages and (c) payments made by IECCL on behalf of JV towards Admin expenses.

2.3 The AO rejected the explanation of the assessee on the ground that the assessee could not produce confirmations from the parties to ascertain the identity and genuineness of the transactions and the assessee was failed to satisfy any of the important conditions such as a) to establish the identity of the person and b) to establish the genuineness of the transactions.

2.4 In view of the above observations and following the decision of the Hon'ble Supreme Court in the case of CIT Vs.

Calcutta Agency Ltd., 19 ITR 191, the AO made the addition of Rs. 3,90,05,332/- on account of unexplained sundry creditors.

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A).

4. The CIT(A) after considering the submissions of the assessee, dismissed the appeal by holding that the assessee had grossly failed to fulfil the requirement of law in so far as huge increase in the sundry creditors, without there being any corresponding increase in expenses claimed and also assessee failed to produce evidence to show that the transaction happened in capital field by providing the details of corresponding increase in the debit side of the balance sheet, along with supporting documentary evidence, including confirmation letters from the subcontractor and other related parties.

5. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal:

“1. The order of the C1T(A)-VI, Hyderabad (CIT-(A)) in confirming the addition of Rs.3,90,05,332/- being the difference in sundry creditors opening and closing balances is wholly unsustainable both on facts and in law.

2. The learned C1T(A) failed to note that the sundry Creditor balances were fully reconciled and therefore erred in confirming the addition of Rs.3,90,05,332/-.

3. The C1T-(A) having found as a matter of fact at paragraph 6.8 of his order that the difference in the sundry creditors stood at Rs.8,38,734/- erred in confirming the entire additions at Rs. 3,90,05,332/-.”

6. Ld. AR submitted that AO disallowed for the reason that assessee has not established the identity and established the genuineness of the transaction. He submitted that IL & FS is a reputed concern and it has submitted confirmation letter with the reconciliation in support of genuineness of the transaction.

7. Ld. DR relied on the order of CIT(A).

8. Considered the rival submissions and perused the material on record. The assessee is an AOP formed to carryout the business of Joint Venture Maytas – CTR and IECCL. The assessee has to record transactions in the business along with the transactions involving transactions within the JV partners. JV partners contribute not only technical support but also financial and infrastructure facilities for the Joint Venture. The transactions carried out for the businesses relating to the assessee are part of financial statement. The transactions between JV partners are reconciled between them periodically and any difference in recording transactions are rectified on periodical basis. We notice that the AO has invoked section 69 to disallow the transaction between the JV partners. Transactions between them is on the basis of support service for the purpose of smooth functioning of the JV. It is not on the commercial basis. These transactions need not be treated as commercial basis. Difference in the transactions are reconcilable and it should not result in the P&L A/c. It will be reflected only in the balance sheet depending upon the transaction. In this case, JV partner has settled the sub-contractor and helped the assessee to meet the liability. It cannot be considered on commercial basis. AO has asked for the identity of the JV partner, and genuineness of the transaction. As explained

before, JV partner need not be proved, it is part of the JV agreement. With regard to genuineness of the transaction, transaction between JV partners are like pooling of resources, it need not be proved as business transaction. In our view, AO and CIT(A) have not understood the transactions between the JV partners and are treating the same on commercial line. In case, assessee records any expenditure in P&L A/c, which was carried out by JV partner, then AO has complete liberty to verify on commercial line. Therefore, the addition made is not proper and the same is hereby deleted. Accordingly, the grounds raised by the assessee on this issue, are allowed.

9. As the corresponding appeal of the SA is adjudicated as above, the SA filed by the assessee becomes infructuous and therefore, the same is dismissed as infructuous.

10. In the result, appeal of the assessee is allowed and the SA is dismissed.

Pronounced in the open court on 20th February, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 20th February, 2019.

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Copy forwarded to:

1. *M/s Maytas – CTR (JV), 8-2-120/113/3/4F, Sanali Info Park, Cyber Towers, Road No. 2, Banjara Hills, Hyderabad – 33*
2. *ACIT, Circle – 14(1), Hyderabad.*
3. *CIT(A) - 6, Hyderabad*
4. *Pr. CIT – 6, Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*