

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.2336/Bang/2018
Assessment year : 2013-14

M/s. Vasavi Datta Impex Pvt. Ltd., (formerly known as Kanya Impex Pvt. Ltd.,) No.4, 1 st Floor, Kempanna Lane, Nagarthpet, Bangalore – 560 002. PAN : AACCK 3216 D	Vs.	Income Tax Officer, Ward 4(1)(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. B. G. Kupendra Setty, CA
Revenue by	:	Dr. P. V. Pradeep Kumar, Addl. CIT

Date of hearing	:	04.03.2019
Date of Pronouncement	:	04.03.2019

ORDER

Per J. Sudhakar Reddy, Accountant Member

This appeal filed by the assessee is directed against the order of the CIT(A)-4, Bangalore, dated 18.06.2018 for the Assessment Year 2013-14 passed under section 250 of the Income Tax Act, 1961 (‘the Act’).

2. Only 2 issues are raised before us. The first is against the disallowance under section 40A(3) of the Income Tax Act and the second is against certain directions given by the learned CIT(A) in connection with some sundry creditors while deleting the addition made under section 41(1) of the Act.

3. After hearing the rival contentions, considering the papers on record, orders of the authorities below and case laws cited, we hold as follows:

4. On ground No. 1, the assessee's case is that it had incurred expenditure in the capital field, for purchase of computers and accessories and that it has not claimed any deduction for these payments in its profit and loss account and thus the disallowance made under section 40A(3) of the Act is bad in law. The learned Departmental Representative, on the other hand, submits that the assessee failed to produce before the Revenue authorities evidence in proof of its contention that this expenditure in cash was incurred for the purpose of capital assets. Before us, we find that the learned Counsel for the assessee relies on the copy of the ledger A/c as well as the fact that the assessee has capitalized the expenditure and claimed depreciation which the learned AO allowed. In our view this matter should be remanded to the learned AO with a direction that if these cash payments are not claimed as expenditure, no disallowance can be made under section 40A(3) of the Act.

5. Ground No. 2 is against directions given by the learned CIT(A) while upholding the contentions of the assessee that section 41(1) of the Act is not applicable. The learned CIT(A) directed the assessee to furnish the present address, PAN and assessment particulars of certain creditors. The assessee submits that PAN particulars have been furnished, whereas the assessment particulars cannot be gathered by it. The learned DR was fair enough to submit that if PAN particulars are given, it would suffice for the department. Accordingly, these directions are modified and the assessee is required to furnish only the PAN particulars of its parties.

6. In the result, this appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 04th day of March, 2019.

Sd/-

(LALIET KUMAR)
Judicial Member

Sd/-

(J. SUDHAKAR REDDY)
Accountant Member

Bangalore.

Dated: 04th March, 2019.

/NS/*

Copy to:

- | | |
|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.