

**IN THE INCOME TAX APPELLATE TRIBUNAL  
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member  
AND  
Shri S.Rifaur Rahman, Accountant Member**

**ITA No.1559/Hyd/2017**  
(Assessment Year: 2013-14)

M/s. Nexus Feeds Limited Vs Dy. Commissioner of Income  
Hyderabad Tax, Circle 16(1)  
PAN:AADCN2786N Hyderabad  
(Appellant) (Respondent)

For Assessee : Shri M.V. Prasad  
For Revenue : Shri Kiran Katta, DR

Date of Hearing: 28.03.2019  
Date of Pronouncement: 05.04.2019

**ORDER**

**Per Smt. P. Madhavi Devi, J.M.**

This is assessee's appeal for the A.Y 2013-14 against the order of the CIT (A)-4, Hyderabad, dated 17.07.2017.

2. Brief facts of the case are that the assessee company filed its return of income for the A.Y 2013-14 on 30.09.2014 admitting total income of Rs.6,66,87,490/- and book profit u/s 115JB at Rs.6,23,31,937/-. The return of income was selected for scrutiny and during the assessment proceedings u/s 143(3) of the Act, the assessee was required to file certain information which was filed by the assessee. The AO noticed that there was a survey conducted on 22.1.15 during which the statement of the Managing Director of the assessee company Sri Goluguri

Ramakrishna Reddy was recorded admitting an income of Rs.22.00 crores for the A.Ys 2013-14 to 2015-16 and that he offered to file a revised return of income accordingly.

3. But the AO noticed that the assessee did not file the revised return as admitted. Therefore, a show-cause notice was issued to the assessee on 18.01.16. The assessee in its reply dated 27.01.2016 stated that on verification of the share capital particulars with its books of account, documents filed with MCA, shareholders list and other documents, there was no discrepancy and therefore, additional income declared during the survey was not required to be admitted in the return of income. The AO however, did not accept the assessee's contention. He held that the statement given u/s 131 has an evidential value and since the M.D. admitted additional income, the Department was prevented from causing further investigation and after lapse of more than a year, the assessee is trying to explain the discrepancies when it is not possible to cause inquiries with regard to the identity, genuineness and creditworthiness of the investors. He, therefore, treated the share capital as unexplained cash credit u/s 68 to the extent of Rs.5,57,00,000/- and brought it to tax.

4. Aggrieved, the assessee preferred an appeal before the CIT (A) stating that the assessee has provided all the details before the AO, but without verifying the same, the AO has made the addition only on the basis of the statement the M.D of the assessee company during the course of survey wherein he had admitted to additional income. The CIT (A), however, confirmed

the order of the AO and the assessee is in second appeal before us by raising the following grounds of appeal:

*“1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.*

*2. The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal without giving another opportunity.*

*3. The learned Commissioner of Income Tax (Appeals) ought to have adjudicate the appeal after obtaining the remand report.*

*4. Any other ground that may be urged at the time of appeal hearing”.*

5. The learned Counsel for the assessee submitted that the assessee was not given proper opportunity of hearing by the CIT (A) and therefore, prayed for a remand of the case to the file of the CIT (A).

6. The learned DR, however, supported the orders of the authorities below.

7. Having regard to the rival contentions and the material on record, we find that the M.D. of the assessee company, though has given a statement u/s 131, but subsequently retracted the same and has filed the evidence to substantiate his claim. The AO instead of verifying the same has only gone by the admission of the M.D. of the assessee company and has accordingly made the addition u/s 68 of the Act. Even the CIT (A) has not verified the assessee's claim. Since the evidence filed by the assessee was to substantiate or explain the cash credits and none of the

authorities have verified the same, we deem it fit and proper to remand the issue to the file of the AO for de novo consideration in accordance with law. Needless to mention that the assessee shall be given a fair opportunity of hearing.

8. In the result, assessee's appeal is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 5<sup>th</sup> April, 2019.

**Sd/-**  
**(S.Rifaur Rahman)**  
**Accountant Member**

**Sd/-**  
**(P. Madhavi Devi)**  
**Judicial Member**

Hyderabad, dated 5<sup>th</sup> April, 2019.

**Vinodan/sps**

Copy to:

- 1 Shri M.V. Prasad, D.No.60-7-13, 4<sup>th</sup> Line, Siddharth Nagar, Vijayawada
- 2 Dy.CIT, Circle 16(1) Hyderabad
- 3 CIT (A)-4 Hyderabad
- 4 Pr. CIT – 4 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

*By Order*