

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**BEFORE SH. R.K PANDA, ACCOUNTANT MEMBER  
AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

ITA No.701/Del/2018  
Assessment Year: 2013-14

Sunita Gupta AN-25B, Shalimar Bagh, New Delhi-110088 PAN No. ADMPG5450H <b>(APPELLANT)</b>	Vs	Income Tax Officer Ward – 34 (2) New Delhi <b>(RESPONDENT)</b>
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Appellant by	Sh. Shaantanu Jain, Advocate Sh. Deepanshu Jain, Advocate
Respondent by	Sh. Sunil Kumar Yadav, Sr. DR Sh. S. S. Rana, LTI (DR)

Date of hearing:	07/05/2019
Date of Pronouncement:	29/05/2019

**ORDER**

**PER R.K. PANDA, AM:**

1. This appeal filed by the assessee is directed against the order dated 13.10.2017 of the CIT(A)-12, New Delhi relating to A. Y. 2013-14.
2. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of trading of chemicals and pesticides. She filed her return of income on 30.09.2013

declaring an income of Rs.10,93,740/-. The Assessing Officer during the course of assessment proceedings observed from the balancesheet that there are creditors of Rs.2,01,85,243/- and unsecured loan of Rs.67 lakh. He, therefore, asked the assessee to explain the source of unsecured loan of Rs.67 lacs and sundry creditors of Rs.2,01,85,243/-. The assessee filed a letter dated 19.02.2016 alongwith account of unsecured loan and sundry creditors. However, she did not furnish the ledger account of sundry creditors and unsecured loan but furnished outstanding balances of sundry creditors on her letter head. On being asked by the Assessing Officer to furnish the ledger account of sundry creditors and unsecured loan the assessee replied that a fire broke out in the office of the assessee and computer and relevant documents and office record consisting of cash book, ledger, vouchers etc were destroyed on 25.06.2013. However, information for audit was provided earlier to the CA for Tax Audit. It was accordingly submitted that it is difficult to provide remaining information regarding expenses claimed in the P & L account.

3. The Assessing Officer issued notice u/s. 133 (6) to the creditors as per address given by the assessee. However, all such notices were returned back unserved by the postal authority with the remarks "No Such Address". The Assessing Officer, therefore, inferred that all the creditors shown by the assessee are not genuine. Since the confirmations from the creditors filed by the assessee are on the assessee's own letter head without PAN number and TIN number of the creditors, therefore, the Assessing

Officer disregarded confirmations from the said parties which were filed on the letter head of the assessee and made addition of Rs.1,50,26,811/-. The Assessing Officer further made addition of Rs.6,80,218/- being 25% of the expenses claimed in the P & L account except bank interest and bank charges in absence of any details furnished by the assessee to substantiate the same. However, no addition has been made on account of unsecured loans.

4. Before the CIT(A) the assessee sought to file the following evidences :-

1. Audited BS for the AY 2014-15
2. Details of Payment Made to Creditors in FY 2013-14
3. Bank Statements for the period 01/04/2012 to 31.03.2014
4. Sales Tax Return for the period 01/04/2012 to 31.03.2014
5. Sales Tax Assessment Order for the year 2012-13 & 2013-14

5. However, the Ld. CIT(A) held that these evidences cannot be admitted as additional evidence under Rule 46 A of the IT Rules. He, therefore, rejected the same.

6. So far as the addition on merit is concerned, it was submitted by the assessee that the creditors have been paid in the subsequent assessment year through banking channels and therefore, addition cannot be made u/s 41 (1) of the IT Act. It was submitted that creditors are trade creditors on account of

purchase of fertilizers and pesticides used for agricultural purposes and are not in the nature of cash credits as envisaged u/s. 68 of the IT Act and therefore, the same cannot be added to the income of the assessee u/s. 68 of the IT Act. It was further submitted that all the creditors belong to Bahadurgarh Unit which has duly been registered with sales tax authority and all sales tax returns for subject period and subsequent year has been duly filed. It was submitted that the concerned assessing authority has made sales tax assessment for the said period by observing as under :-

*“I have examined the returns and found complete in all material particular. I am satisfied that the returns are complete in material as per requirement of Section 15(1). The input tax has been computed correctly and the tax has been deposited in full. (The purchases prima facie, seems to be genuine). All returns are filled in time.”*

7. The assessee further submitted that it is not clear from the order of the Assessing Officer as to under which provisions of the Act i.e. u/s. 41 (1) or u/s. 68, the addition has been made. Relying on various decisions it was submitted that the addition made by the Assessing Officer is uncalled for and liable to be deleted on account of the following reasons :-

- (i) There was no evidence to show cessation of liability.

- (ii) Assessee still shows the liability in its books of accounts which itself is prima facie evidence that the liability exists.
- (iii) The transaction of purchase, if regarded as bogus then there is no liability in law and hence the question of applying section 41 (1) will not arise for consideration.
- (iv) The sums in question has been repaid in the subsequent assessment years thereby rendering the theory of cessation of liability not sustainable.

8. However, the Ld. CIT(A) was not satisfied with the arguments advanced by the assessee and upheld the addition of Rs.1,56,26,811/- made by the Assessing Officer by observing as under :-

6.3.1 *“The Assessing Officer noted that Assessee has shown creditors amounting to Rs.2,01,85,243/- in the balance sheet as on 31.03.2013. The Assessing Officer asked the Assessee to explain the sundry creditors with the documents, bills & vouchers. The Counsel of the Assessee only furnished the balances in the accounts and failed to furnish the copy of ledger accounts pertaining to sundry creditors. It was explained that fire broke in the godown / office in the premises on 04.03.2016 resulting in destruction of computer and office records consisting of cash book, ledger, vouchers etc. It was also submitted that the information had already been submitted to the Chartered Accountant for the tax audit. The Assessee expressed inability to provide remaining information with respect to expenses claimed to Profit & Loss Account. The Assessing Officer issued notices u/s 133(6) to the creditors on the addresses given by the Assessee. All the notices were received back with the postal remarks “No Such Address”. The Assessee had filed confirmation of the creditors on her own letter head wherein PAN of the parties or TIN Numbers was not mentioned. The Assessing Officer then asked the Assessee to*

*produce the creditors for verification. It was replied that addresses available with the Assessee have been provided and the confirmations have been placed on record. The Assessing Officer did not find this explanation satisfactory and added the difference of the creditors shown in balance sheet for FY 201 1-12 & 2012- 3, Thus the addition of Rs. 1,50,26,811/- has been made.*

*6.3.2 The written submission of the Appellant has been quoted in the foregoing paras. The arguments of the Appellant are being considered and examined in the light of the provisions of the Act. It is submitted that the creditors have been repaid in the subsequent Financial Year through banking channels. But the Assessee has not furnished the ledger account of the parties to examine the genuineness of the balances and transactions. Further, the Appellant has failed to show the entries of the payments relating to the balances. The other argument of the Assessee is that the sundry creditors cannot be treated under the provisions of section 41(1) of the FT. Act because the said creditors are not outstanding as on 31.03.2014. If the argument of the Assessee is admitted to be true, it would imply that she has been in touch with the creditors regularly and in that case she could either provide complete postal address of those creditors or they could be requested to appear before the Assessing Officer for the verification of the claim. The Assessing Officer has not added the sundry creditors u/s 41(1) of the I.T. Act. The Assessing Officer has only remarked that creditworthiness of the creditors does not appear to be genuine. On careful consideration of the facts of the case, it may be seen that the creditors appear to be related to the trading activity. But it is not the case that the Assessee has obtained whether in cash or in any other manner any amount in respect of the expenditure by way of remission or cessation of liability. When the Assessee could not prove the genuineness of the creditors related to trade, the logical inference would be claim of bogus liability as a result of inflated purchases / no purchases during the Financial Year under consideration. The Assessee has not established by any evidence that the creditors in respect of which debit entries were made in the Profit & Loss Account, belong to earlier Financial Years. The Assessing Officer has not made the addition u/s 68 calling for distinction*

*between a trade liability or capital liability. The decisions cited by the Ld. AR, as may be seen, are distinguishable on facts, hence, cannot be relied on to deliver the judgment in this case. Accordingly, the addition is confirmed and the ground is dismissed.*

9. So far as the disallowance of expenses amounting to Rs.6,80,218/- is concerned, the Ld. CIT(A) restricted the same to Rs.2,72,087/- and deleted an amount of Rs.4,08,131/- by observing as under :-

*7.3.1 The Assessing Officer has disallowed 25% of total claim of the expenses, excluding bank interest and charges amounting to Rs. 16,49,472/-. The Appellant has explained that fire broke in the godown / office of the Assessee leading to burning of computer, relevant documents and office record consisting of cash book and ledger vouchers. There is a slight increase in the GP ratio and NP ratio as compared to the preceding Assessment Year. The accounts of the Appellant were duly audited by a Chartered Accountant.*

*7.3.2 I have considered the submission of the Appellant. It is a fact that the onus to prove the genuineness of the expenses u/s 37 of the I.T. Act. 1961 is on the Assessee. The Assessee could not produce relevant details, bills & vouchers relating to expenses on the ground of fire in the office premises leading to the destruction of the records. It is also pleaded by the Assessee that the gross profit and net profit during the year under consideration was slightly better than previous Financial Year. On the other hand, the expenses have remained unverified and the Assessee has not even produced secondary evidences to substantiate the claim. If the expenses have been paid to the parties outside the setup of Appellant's business either by cash or through bank, the evidences could be obtained in this regard. In the case of payments through bank or in those cases where TDS has been made, the Assessee could explain the genuineness of*

*deduction in the Profit & Foss account. However, looking to the totality of the facts and circumstances, I restrict the disallowance only to the extent of 10% of the total claim. The Assessing Officer has considered expenses for disallowance to the extent of Rs.27,20,872/-. Thus disallowance to the extent of Rs.2,72,087/- is confirmed. The addition of Rs.4,08,131/- is deleted.*

10. Aggrieved with such order of the CIT(A), the assessee is in appeal by raising following grounds of appeal :-

1. *On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) (hereinafter referred to as CIT (A)) is bad in the eye of law and on facts.*

2. *On the facts and circumstances of the case, the learned CIT (A) has erred both in facts and in law in passing the order without giving assessee a reasonable opportunity of being heard which is clear violation of the principle of natural justice*

3. *On the facts and circumstances of the case, the learned CIT (A) has erred in both the facts and in law by not admitting the additional evidence produced by the appellant.*

4. *On the facts and circumstances of the case, the learned CIT (A) has erred both on facts and in law by confirming the addition on account of unexplained creditors of Rs.1,50,26,811/-.*

5. *On the facts and circumstances of the case, the learned CIT (A) has erred both on facts and in law by confirming the disallowance of expenses of Rs 2,72,087/- which is claimed and allowable as per the provisions of the Act.*

11. The Ld. Counsel for the assessee strongly challenged the order of the CIT(A) in sustaining the addition of Rs.1,50,26,811/- on account of unexplained creditors and sustaining the disallowance of expenses of Rs.2,72,087/-.

12. So far as the addition of Rs.1,50,26,811/- on account of unexplained sundry creditors is concerned the Ld. Counsel for the assessee drew the attention of the bench to the query raised by the Assessing Officer during the course of assessment proceedings, copy of which is placed at page 36 and 37 of the paper book and submitted that the Assessing Officer issued notice u/s. 133 (6) to the following four parties :-

1. M/s. Crop Care Chemicals 554/2 F, Vanagram Road, Ambattur, Chennai -600058
2. M/s. Krishna Agri Science 40/1, Mambala Pattu Road, Villupuram, Tamil Nadu, -605602
3. M/s. Godwari Pesticides Plot No.242, Silika Palam Srika Kulam, A. P. – 532403
4. M/s. Padmawati Crop. Science Javer Centre No.70, Vth Floor, Raja Anna Malai Building Chennai-600015

13. He submitted that out of the notice u/s. 133 (6) to the above 4 creditors only the letter addressed to M/s. Krishna Agri Science was returned back with the remark “No Such Address”. However, no other letters were returned back and no information from

these parties was received. He submitted that the Assessing Officer while making the addition on account of outstanding sundry creditors has not made any addition on account of Krishna Agri Science and has made addition on account of remaining three parties.

14. Referring to page 83 of the paper book the Ld. Counsel for the assessee drew the attention of the bench to the purchase and sales made by the assessee during the year and submitted that the same has been accepted and no doubt has been raised by the Assessing Officer on account of purchases and sales of the assessee. Referring to the page 74 of the paper book he drew the attention of the bench to the VAT order and drew the attention of the bench to the observation by the VAT authority accepting the returns.

15. He submitted that the payments have been made in the subsequent years to the creditors through banking channels. He submitted that it is not understood as to under which provision of the Act, the Assessing Officer has made the addition i.e. either u/s. 41 (1) or section 68 of the IT Act. He submitted that addition cannot be made u/s. 41 (1), since there was no evidence to show that there is cessation of liability as the assessee is still showing the liability in the books of accounts. The Ld. AR submitted that the transaction of purchase, if regarded as bogus, then there is no liability in law and, therefore, the question of applying provisions of section 41 (1) will not arise. Further since the outstanding amount has been paid in the subsequent assessment

year, therefore, theory of cessation of liability is not sustainable. He submitted that the Assessing Officer in the instant case has made the addition by just taking the difference of opening creditors and closing creditors and not party wise.

16. Referring to the decision of Hon'ble High Delhi Court in the case of CIT Vs. Victor Electrodes Ltd, the Ld. Counsel for the assessee drew the attention of the bench to para 9 of the order and submitted that there is no legal obligation on the part of the assessee to produce the director and failure to produce them cannot be a ground for making the addition when various other details were produced and the Assessing Officer did not make any attempt to summon the directors. The order of the Tribunal deleting the addition was accordingly upheld.

17. Referring to the decision of Hon'ble Bombay High Court in the case of CIT Vs. Nikunj Exim Enterprises Pvt Ltd. 372 ITR 619, he submitted that where sales are supported by purchases and payments made through banks merely because suppliers had not appeared before the Assessing Officer, the purchases could not be rejected as bogus.

18. Referring to the decision of Hon'ble Delhi High Court in the case of CIT Vs. Vardhman Overseas Limited reported in 343 ITR 408, he submitted that remission or cessation of trading liability is governed by section 41 (1) and not by section 28 (IV). Relying on various other decisions he submitted that the addition made

by the Assessing Officer and sustained by the CIT(A) is not justified.

19. So far as disallowance of expenses which has been partly sustained by the CIT(A) is concerned he submitted that the same is on the higher side.

20. The Ld. DR on the other hand strongly supported the order of the CIT(A) and relied on the following decisions:-

1. PCIT VS. NRA Iron And Steel Pvt. Ltd. Reported in 2019 -TIOL-SC-IT
2. Prem Casting (P.) Ltd. Vs. CIT (A) reported in 88 taxman.com 189 (Allahabad)
3. M/s. Trimurti Concast Pvt. Ltd. Vs. CIT, Muzaffarnagar (UP) 2018 TIOL - 274 - SC -IT
4. Konark Structural Engineers (P) Ltd. Vs. DCIT 96 taxman.com 255 (SC).

21. He submitted that the addition made by the Assessing Officer and upheld by the CIT(A) on account of sundry creditors is justified. So far as the disallowance of expenses is concerned he submitted that the Assessing Officer has disallowed 25% of the expenses which has been reduced to 10% by the CIT(A) and, therefore, the same being reasonable should be upheld.

22. We have considered the rival arguments made by both the sides and perused the orders of the authorities below. We have also considered the various decisions cited before us. We find the assessee in the instant case is engaged in the business of trading of chemicals and pesticides. The accounts of the assessee are audited and no adverse remarks have been pointed out by the auditors. We find the Assessing Officer in the order passed u/s. 143 (3) made addition of Rs.1,50,26,811/- being the difference between the sundry creditors as on 31.03.2013 and 31.03.2012 in respect of 4 creditors as unexplained the details of which are as under :-

Sundry Creditors	Year ended 31.03.2012 (AY 2012-13) (In Rs. Page 123 of the PB (A))	Year ended 31.03.2012 (AY 2013-14) (In Rs. Page 16 of the PB (A))	New Purchases from the Creditors during the year (B-A)
Feccuni Singapore	5,10,000	-	-
Crop Care	-	55,65,500	55,65,500
Gudawari Pesticides	13,75,000	62,85,750	49,10,750
Padmawati Crop Science	14,50,000	66,95,800	52,45,800
Krishna Agri Science	18,23,432	16,38,193	-

Total	51,58,432	2,01,85,243	1,57,22,050
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23. Similarly, the Assessing Officer made addition of Rs.6,80,218/- being 25% of the expenses except bank interest and bank charges for want of details. We find the Ld. CIT(A) confirmed the addition of Rs.1,50,26,811/- on account of unexplained creditors and restricted the disallowance of expenses to Rs.2,72,087/- being 10% of such expenses, the reasons for which has already been reproduced in the preceding paragraphs.

24. So far as the addition on account of sundry creditors is concerned we find the Assessing Officer made the addition on the ground that the credit worthiness of the creditors does not appear to be genuine since the notices issued u/s 133 (6) were returned unserved and the assessee failed to produce the parties for his examination. We find the Ld. CIT(A) upheld the action of the Assessing Officer the reasons of which has already been reproduced in the preceding paragraphs. It is the submissions of the Ld. Counsel for the assessee that the Assessing Officer has not made any addition on account of Krishna Agri Science. Further the addition has been made simply on the basis of difference of opening and closing balance of creditors which is not justified especially when the payments have been made to the above parties in the subsequent years through banking channels and the purchases and sales have been accepted by the Assessing Officer as well as VAT authority.

25. We find some force in the above arguments advanced by Ld. Counsel for the assessee. The Assessing Officer in the instant case has not doubted the purchases made from the said parties, since he has not disturbed the purchases. He has also not doubted the sales of the assessee. The purchases made by the assessee from some of the said parties in the subsequent years have also not been doubted a statement made by the Ld. Counsel for the assessee at the bar. Further, out of the four notices issued to the above said four creditors and only one letter addressed to M/s. Krishna Agri Science was returned back with the remarks “No such Address” and no other letters were received back and no information from these parties was received by the Assessing Officer.

26. We find the Assessing Officer in the show cause letter dated 11.03.2016 addressed to the assessee has mentioned as under :-

*“Accordingly, notices u/s. 133 (6) were issued to the above said creditors and only one letter addressed to M/s. Krishna Agri Science is returned back with the remarks that “No such Address” and no other letters are received and no information from these parties is received to this office.”*

27. Thus, the observation of the Assessing Officer in the assessment order that all the letters were returned back is incorrect. Since in the instant case the purchases are not doubted and the assessee has made payments to the creditors in the subsequent years through banking channels and the

purchases made from some of the above parties in the subsequent years were not doubted and the notices u/s. 133 (6) issued to the 3 parties were never returned back meaning thereby these were served on the parties, therefore, addition in our opinion on account of difference in the opening and closing balance of sundry creditors in absence of non production of the creditors is not justified. It is also not understood as to under which provision the addition has been made i.e. either u/s. 41 (1) and section 68.

28. We find the Hon'ble Delhi High Court in the case of CIT Vs. Victor Electrodes Ltd. (supra) has observed as under :-

*“9. There was no legal obligation on the assessee to produce some director or other representative of the applicant-companies before the Assessing Officer. Therefore/ failure of the assessee to produce them could not, by itself, have justified the additions made by the Assessing Officer, when the assessee had furnished documents, on the basis of which, the Assessing Officer, if he so wanted, could have summoned them for verification. No attempt was made by the Assessing Officer to summon the directors of the applicant-companies. The addresses of these companies must be available on the share applications, memorandum and articles of association and their income-tax returns. If the Assessing Officer had any doubt about identity of the share applicants, he could have summoned the directors of the applicant-companies. No such attempt was, however, made by him. Therefore, the Commissioner of Income-tax (Appeals) and the Income-tax Appellate Tribunal, in our view, were justified in holding that the identity of the share applicants and the genuineness of the transactions had been established by the assessee. For the reasons given in the preceding paragraphs, no substantial question of law arises for our consideration.”*

29. We find the Hon'ble Bombay High Court in the case of CIT Vs. Nikun Eximp Enterprises (P) Ltd. (supra) mark observed as under :-

*7. We have considered the submission on behalf of the revenue. However, from the order of the Tribunal dated 30-04-2010, we find that the Tribunal has deleted the additions on account of bogus purchases not only on the basis of stock statement i.e. reconciliation statement, but also in view of the other facts. The Tribunal records that the Books of Accounts of the respondent-assessee have not been rejected. Similarly, the sales have not been doubted and it is an admitted position that substantial amount of sales have been made to the Government Department i.e. Defence Research and Development Laboratory, Hyderabad. Further, there were confirmation letters filed by the suppliers, copies of invoices for purchases as well as copies of bank statement all of which would indicate that the purchases were infact made. In our view, merely because the suppliers have not appeared before the Assessing Officer or the CIT(A), one cannot conclude that the purchases were not made by the respondent-assessee. The Assessing Officer as well as CIT(A) have disallowed the deduction of Rs.1.33 crores on account of purchases merely on the basis of suspicion because the sellers and the canvassing agents have not been produced before them. We find that the order of the Tribunal is well a reasoned order taking into account all the facts before concluding that the purchases of Rs.1.33 crores was not bogus. No fault can be found with the order dated 30-04-2010 of the Tribunal.*

30. We find the Hon'ble Delhi High Court in the case of Shri Vardhman Overseas Limited (supra) has decided an identical issue. The assessee in that case was a company engaged in the manufacture of rice from paddy. It was also selling rice after purchasing the same from the local market. While verifying the sales and the sundry debtors shown by the assessee in its books of account as on 31-3-2002, the Assessing Officer decided to verify the sundry creditors shown in the books of account as on

the said date. This was because he took the view that if the consignment sales were not genuine, the purchases shown to have been made by the assessee on credit basis could also not be treated as genuine. He, therefore, called upon the assessee to submit confirmation letter from the sundry creditors. The assessee did not submit the confirmation letters, but wrote to the Assessing Officer that it was not aware of the present whereabouts of the creditors after a lapse of four years and whatever addresses were available with the assessee had been "given by the suppliers at the time when it purchased paddy from them. The Assessing Officer rejected the assessee's explanation and added the amount in question to the assessee's taxable income under section 68. On appeal, the Commissioner (Appeals) held that the assessee's conduct clearly showed that the liabilities shown in the sundry creditors' account in its books did not exist. In this view of the matter, he held that the liabilities/credits had ceased to exist and, therefore, the addition made by the Assessing Officer was justified but he confirmed the same under section 41(1). On further appeal, the Tribunal held that the applicability of section 68 was ruled out since no fresh amounts were credited in the accounts of the creditors during the relevant accounting year. The Tribunal further found that the amounts payable to the sundry credits were not credited to its profit and loss account for the year and were still shown as outstanding as on 31-3-2002. The Tribunal therefore held that the provisions of section 41(1) were not attracted to the case. Accordingly, the impugned

addition made by the authorities below was deleted. On appeal by the revenue, the Hon'ble High Court held as under (short notes) :-

*“that a unilateral action cannot bring about a cessation or remission of the liability because a remission can be granted only by the creditor and cessation of the liability can only occur either by reason of operation of law or the debtor unequivocally declaring his intention not to honour his liability when payment is demanded by the creditor, or by a contract between the parties, or by discharge of the debt.”*

*“That the assessee had not unilaterally written back the accounts of the sundry creditors in its profit and loss account. The liability was shown in the balance-sheet as on March 31, 2002. The assessee being a limited company, this amounted to acknowledging the debt in favour of the creditors for purposes of section 18 of the Limitation Act, 1963. The assessee's liability to the creditors, thus, subsisted and did not cease nor was it remitted by the creditors. The liability was enforceable in a court of law. The amount was not assessable under section 41 (1).”*

31. So far as the various decisions relied by the Ld. DR are concerned they all relate to bogus share capital or bogus share application money and therefore, all these decisions are

distinguishable and not applicable to the facts of the present case.

32. Since in the instant case it is not understood as to whether the addition has been made u/s. 41(1) or 68 of the IT Act , 1961 and since the Assessing Officer has accepted purchases as genuine and the amount outstanding in the name of sundry creditors have been paid through banking channels in subsequent years and purchases made from the said parties in subsequent years has been accepted by the revenue without any doubt and since the notices issued to the three parties were never returned back as per the letter addressed by the Assessing Officer to the assessee, therefore, merely because the said creditors were not produced before the Assessing Officer for his examination, in our opinion, cannot be a ground for making the disallowance. We, therefore, set aside the order of the CIT(A) on this issue and direct the Assessing Officer to delete the addition.

33. So far as the disallowance of Rs.2,72,087/- out of Rs.6,80,218/- made by the Assessing Officer is concerned, we find the Assessing Officer made disallowance of 25% of the various expenses claimed in the P & L account (except bank interest and bank charges) on the ground that assessee did not furnish the bills and vouchers. We find the Ld. CIT(A) restricted the same to 10% of the expenses and thereby sustained an amount of Rs.2,72,087/-. While disallowance of expense on ad-hoc basis is justified on account of non submissions of bills and vouchers, however, considering the totality of the facts of the case

disallowance of 10% of the expenses sustained by the CIT(A) appears to be on the higher side. We, therefore, restrict such disallowance to 7.5% of expenses. This ground raised by the assessee is partly allowed.

34. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 29.05.2019.

Sd/-  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.K PANDA)**  
**ACCOUNTANT MEMBER**

*\*Neha\**

Date:- 29.05.2019

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
 ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	29.05.2019
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	