

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**श्री वी. दुर्गा राव, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष**

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

**S.A.No.57/Viz/2019**

**(Arising out of I.T.A. No.112/Viz/2019)**

**(निर्धारण वर्ष/Assessment Year : 2014-15)**

**आयकर अपील सं./I.T.A.No.112/Viz/2019**

**(निर्धारण वर्ष/A.Y. : 2014-15)**

Balaji Steel Traders  
D.No.8-411-1/1  
Near Anjaneyaswamy Temple  
South Bye Pass Road  
Ongole, Prakasam  
**[PAN : AAJFB3629D]**

Vs. Income Tax Officer  
Ward-5(4)  
Visakhapatnam

**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से / Respondent by

: Shri C.Subrahmanyam, AR  
: Shri V.Appala Raju, DR

सुनवाई की तारीख / Date of Hearing

: 14.08.2019

घोषणा की तारीख/Date of Pronouncement

: 25.09.2019

**आदेश /ORDER**

**Per Shri D.S.Sunder Singh, Accountant Member :**

Delay : In this case there was a delay of 11 days in filing the appeal. The assessee filed condonation petition and submitted that he met with an

accident and indisposed due to hospitalization. After hearing both the parties, we condone the delay and admit the appeal.

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)]-9, Hyderabad vide I.T.A.No.10231/CIT(A)-9, Hyd/2017-18 dated 18.12.2018 for the Assessment Year (A.Y.) 2014-15.

2. All the grounds of appeal are related to the addition made by the Assessing Officer (AO) in respect of the difference between the closing stock and sundry debtors balances declared to the bank and accounted in the books of accounts. During the course of assessment proceedings, the AO had collected the information from the Axis Bank, Gajuwaka Branch, Visakhapatnam with regard to the securities pledged and stocks hypothecated etc., for availing the Over Draft{(OD) (Cash Credit)} facilities from the bank. As per the information furnished by the bank, the AO found that the closing stock was declared at Rs.1,80,34,903/- as on 31.03.2014 and whereas it was accounted in the books of accounts at Rs.89,68,749/- resulting in difference of Rs.90,66,154/-. Similarly, in respect of sundry debtors, the assessee declared to the bank as on 31.03.2014 at Rs.69,35,805/- against the book balance of Rs.42,83,258/-, thus, there was

a difference of Rs.26,52,547/-. The closing stock and the book debts were over stated to be bank to the extent of Rs.1,17,18,701/- which was brought to tax u/s 69B of the Income Tax Act, 1961 (in short 'Act') by the AO.

3. Against the order of the AO, the assessee went on appeal before the CIT(A) and the Ld.CIT(A) followed the order of Hon'ble High Court of Calcutta in the case of Binod Kumar Agarwala Vs. CIT in ITTA No.22 of 2015 GA No.436 of 2015 dated 21.06.2018 and confirmed the addition made by the AO and dismissed the appeal of the assessee.

4. Against the order of the Ld.CIT(A), the assessee is in appeal before us. During the appeal hearing, the Ld.AR submitted that the AO made the addition relating to difference in stocks and the sundry debtors balances declared to the bank and accounted in the books of accounts. The Ld.AR submitted that the stock was overvalued and the balance sundry debtors were increased by including the non trade debts for availing the increased credit facilities. He further submitted that for Bank loan purpose and as well as in the books of accounts the quantities were correctly reported and there was no difference in quantities. The Ld.A.R further submitted that the closing stock was correctly valued as per the purchase bills for income tax

purpose and the stocks declared to the bank was slightly over valued for the purpose of availing better credit facilities. Similarly, the sundry debtors were correctly grouped and declared in the books of accounts and to the bank for loan purposes other non trade debts were also included thereby increasing the position of sundry debtors. However he submitted that there was no change in the position of overall debtors declared in the Balance Sheet. Referring to page No.6 of the paper book, the assessee explained that it had submitted the stock statement for Rs.1.80 crores to the bank as on 31.03.2019 and declared the sundry debtors balances of Rs.69,35,805/-. Referring to page No.7 of the paper book, the Ld.AR submitted the details of stocks declared to the bank with quantity and unit rate adopted for valuing the stock as follows :

Sl.No.	Name	Quantity	Unit Rate	Value
1.	AC sheets (in mtrs.)	2673	297	7,93,881/-
2.	Cement (in bags)	3970	378	15,00,660/-
3.	Iron (in kgs.)	178429	88	1,57,01,752/-
4.	Liquid (in Rs.)			38,610/-

4.1. Referring to page No.9 of the paper book, the assessee submitted that the assessee declared AC sheets to the bank at unit rate of Rs.297/-, against the correct rate of Rs.152.20 per meter as per purchase price of the bills. Similarly, in respect of iron, the closing stock quantity was 1,78,429

Kgs which was correctly declared to the bank as well as in the books of accounts. However, the unit rate was adopted @Rs.88/- per kg to bank against which the correct value worked out to Rs.43.55 per kg. The assessee furnished the date wise purchase bills for closing stock of 1,78,429 kgs iron and the value of the same work out to Rs.77,71,185/-. In case of cement also the correct value worked out to Rs.7,58,481/- for 3970 bags @ Rs.191.05 per bag, whereas it was declared to the bank at Rs.15,00,660/- @378/- per bag. The Ld.AR furnished the date wise purchase bills for the closing stock of each item as per which the value of closing stock, item wise works out as under :

**(i) AC Sheets - Quantity : 2673 (closing stock) and Valuation :**

Bill Date	Quantity (in mtrs)	Bill Amount (Rs.)
30.03.2014	1460	2,30,831
26.02.2014	892	1,26,536
16.01.2014	321	49,471
<b>Total</b>	<b>2673</b>	<b>4,06,838</b>

*Valuee per mtr = Value/Quantity*

*= Rs.4,06,838/2673*

*= Rs.152.20*

*Total value of closing stock = 2673\*Rs.152.20 = Rs.4,06,838/-*

**(ii) Iron - Quantity : 178429 (Closing Stock) Valuation :**

Bill Date	Quantity (in Kgs)	Bill Amount (Rs.)
29.03.2014	23960	10,30,280
27.03.2014	2880	1,25,075
25.03.2014	5450	2,39,337

24.03.2014	17190	7,55,308
21.03.2014	10100	4,42,410
11.03.2014	24212	10,24,608
10.03.2014	1810	80,157
08.03.2014	44,127	19,79,486
07.03.2014	48,700	20,94,524
Total	1,78,429	77,71,185

*Value per Kg = Value / Quantity*

*= Rs.77,71,185/1,78,429*

*= Rs.43.55*

*Total Value of Closing Stock = 1,78,429 \* Rs.43.55*

*= Rs.77,71,185/-*

**(iii) Cement - Quantity : 3970 (Closing Stock) Valuation :**

Bill Date	Quantity (in bags)	Bill Amount (Rs.)
31.03.2014	1080	2,01,886
30.03.2014	800	1,61,609
29.03.2014	1530	2,82,175
28.03.2014	300	65,938
27.03.2014	260	46,873
Total	3970	7,58,481

*Value per bag = Value / Quantity*

*= Rs.7,58,481/3970*

*= Rs.191.05*

*Total value of Closing Stock = 3970\*Rs.191.05 = Rs.7,58,481*

4.2. Thus the assessee submitted that the closing stock value declared in the books of account was true and correct and worked out as per purchase bills and whereas in the case of bank, stocks were slightly over stated adopting higher unit rates which resulted in increase in the valuation of the stock.

4.3. In respect of the sundry debtors, referring to page No.8 of the paper book, the Ld.AR submitted that the sundry debtors of Rs.69.35 lakhs was declared to the bank in 14 items as under which include trade debtors as well as other debtors.

List of Debtors as on			
S.No.	Name of the Debtor	Less than 60 days	Above 60 days
		Amount (Rs.)	Amount (Rs.)
1.	Abjeeth Constuctions (Ongole)	1,14,785	
2.	A.Sudhakar Rao – Contractor	1,08,613	
3.	Pace Institute of Technology & Sciences	2,59,656	
4.	Pendyala Venkateswarlu (Uppugundur)	1,97,490	
5.	S.A.Rajak Traders, Martur	2,50,720	
6.	Varalakshmi Steels & Cements (Kaligiri)	1,02,710	
7.	Vishnu Engineers & Contractors	19,48,803	
8.	Vizag TMT Steel Profiles...Vij	8,43,028	
9.	G.K.Constructions	3,00,000	
10.	Bhavya Cements	17,60,000	
11.	K.C.P.Cements Ltd.	2,50,000	
12.	J.S.W.Cements Ltd.	4,50,000	
13.	Bharati Cements	1,50,000	
14.	Hyderabad Industries Ltd.	2,00,000	
	Total	69,35,805	

4.4. The Ld.AR referring to page No.56 of the paper book submitted that the actual trade debtors representing the trade transactions was only Rs.42,83,258/- as accounted in the books of accounts. Referring to page No.70 of the paper book, the Ld.AR submitted that other loans and

advances were also included in the sundry debtors statement provided to the bank to show inflated balances. The Ld.AR invited our attention to Sl.No.10 of the list in page No.8 of the paper book and submitted that M/s Bhavya Cements was financial debt with an outstanding amount of Rs.17.60 lakhs, was included in sundry debtors balances to the bank for loan purposes, whereas the same was excluded from sundry debtors and reported in other debtors in the Balance Sheet. Thus, the Ld.AR argued that while grouping the balances in the balance sheet genuine trade debts were taken under the head sundry debtors, whereas to the bank non trade debtors were also clubbed to avail the higher limits. The Ld.AR submitted that except including some non trade debts/financial debts the assessee did not submit any false information and the total debtors including trade and non trade were more than debtors declared to the bank. Thus argued that merely because the stocks were overvalued for the purpose of bank loan or the financial/non trade debts were included in the statement given to bank with incorrect grouping the AO cannot make the addition and accordingly requested to delete the addition made by the AO.

5. On the other hand, the Ld.DR relied on the order of the Ld.CIT(A) and the decision of Hon'ble High Court of Calcutta in the case of Binod Kumar

Agarwala (supra) and argued that the AO has rightly made the addition taking the basis from the statements submitted to the bank, hence requested to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

6. We have heard both the parties and perused the material placed on record. As per the purchase bills placed in the paper book the correct value of closing stock works out to Rs.89,68,749/- which the assessee accounted in the books of account and the financial statements. The assessee has furnished the details of quantities and also relevant bills in the paper book which was not disputed by the department. It is established by the assessee that he has over stated the values by inflating the unit rates to increase the value of closing stock to the bank, but the quantity remained the same. The quantities of stock reflected in the closing stock in the books of accounts as well as in the bank statement is one and the same and there was no difference. The assessee had adopted the different unit rates to the bank and valued the closing stock for preparation of financial statements. The rates adopted by the assessee for the purpose of financial statements were actuals and as per the purchase bills, and thus the assessee demonstrated that the stock position as on 31.03.2014 admitted in the

books of accounts was correct and tallied with the purchase bills. Similarly in the case of sundry debtors, in addition to the trade debtors, the assessee had included the financial debtors also in the statement given to the bank which is evidenced from the details furnished in the paper book in the pages referred. From the perusal of the paper book pages referred above, we understand that the value of the closing stock and sundry debtors was correctly admitted in the books of accounts and the same was over stated to the Bank. In addition to the trade debts, the assessee had included the financial debtors also in the debtors statement for the purpose of taking advance. While admitting the correct position in the books of accounts, the assessee has made incorrect report to the bank. From the assessment order, we find that the assessee had produced the books of accounts and furnished relevant information and documents etc., as called for during the course of scrutiny proceedings and the AO had verified the same and no defects were noticed or no deficiencies were brought on record by the AO in respect of the value of the closing stock or the sundry debtors. Therefore, except the differences in stock statement and the debtors statement submitted to the bank, there is no other evidence available to the department to take adverse view of the closing stock and sundry debtors

declared in the books of accounts. Though declaring excess stock to the bank is unethical, but cannot be the sole evidence or sole reason for making the addition to the returned income when all the evidences are available with the AO. The Ld.CIT(A) relied on the decision of Binod Kumar Agarwala cited supra, where the issue was with regard to declaration of incorrect figures in the balance sheet duly audited by the qualified Chartered Accountant. In the cited case, the assessee had submitted one balance sheet to the bank and another balance sheet to the department duly audited whereas in the assessee's case, the assessee had established the correctness of the closing stock as well as the balance of sundry debtors with the relevant bills and the entries in the books of accounts. Therefore, the case law relied upon by the Ld.CIT(A) has no application in this case. The assessee relied on the decision of Hon'ble jurisdictional High Court of Andhra Pradesh in the case of CIT-6, Hyderabad Vs. Sri Taraka Jewellers in ITTA No.274 of 2013 dated 25.07.2013, wherein, Hon'ble High Court held that no addition is called for solely on account of difference in the value of stock submitted to the bank and the value of stocks shown in the accounts submitted for assessment. For the sake of clarity and convenience, we

extract relevant part of the order of the Hon'ble High Court of Andhra Pradesh which reads as under :

*“Upon reading of the suggested questions of law, it appears the appeal is directed in relation to the Tribunal's finding on the statement of account furnished to the bank. It is settled position of law by virtue of decision of both the Tribunal and the High Court that there cannot be any addition of difference in the stock statement furnished to the bank and the one shown in the books of account. In this case, during survey, nothing is found or brought on record to show that on physical verification, the stock found was in excess of the stock recorded in the books of account. It was explained by the assessee that the stock statement furnished to the bank was on estimate basis but the stock shown in the assessment proceedings was based on actual physical verification. As such, there was no reason to reject the books of account of the assessee and no addition is called for solely on account of the difference in value of the stock submitted to the bank and the value of the stock shown in the accounts presented for assessment.”*

6.1. The assessee also relied on the decision of this Tribunal in the case of ACIT Vs Thatavarthi Ramesh Babu vide I.T.A. No.28/Viz/2015 dated 08.12.2017, wherein the coordinate bench of ITAT has taken similar view of not to make the addition solely on the reason of difference in stock declared to the bank and presented for assessment. For the sake of clarity and convenience, we extract para No.14 and 15 of the order of this Tribunal which reads as under :

*“14. We have carefully considered the rival submission and perused the record. We have also carefully gone through the case law relied upon by the A.O. as well as the Ld. Counsel for the assessee. It is no doubt true that the initial burden is upon the assessee to prove the correct value of the stock held by the assessee and he has to prove that the value reflected in the books of accounts is correct but the fact remains that the courts have time and again accepted the fact that in*

*open loan system, the parties tend to inflate figures of quantity as well as rate merely to enjoy higher cash credit limits. In the instant case, the assessee filed monthly VAT returns based on the same books of accounts and the same was accepted without making any additions. Neither the bank authorities nor the A.O. made any effort to verify the actual stock to prove that there is existence of unaccounted stock under these circumstances and consistent with the view taken by the ITAT and various High Courts, we hold that the A.O. has not made out a case for making an addition referable to unaccounted stock as well as determining the profit on the alleged sale of such unaccounted stock. Under the circumstances, we uphold the order passed by the Ld.CIT(A).*

15. *Similarly, with regard to the estimate of gross profit, there cannot be any uniform basis for estimating gross profit. There is no dispute with regard to the fact that there were deficiencies in the maintenance of books of accounts. When the A.O. as well as CIT(A) agreed on this issue, it may not be proper to substitute the case of the A.O. by an Appellate Authority, without any cogent reasons. Since the A.O. followed an acceptable basis such as averaging the 3 years profit rate, we are of the view that the order of the Ld. CIT(A) on this aspect deserves to be modified and we uphold the order of the A.O. of estimating the average rate of 36.85%. The order of the Ld.CIT(A) is modified accordingly."*

6.2. We have gone through other case laws referred by the assessee in the paper book as under.

- i. CIT Vs. M/s Sri Taraka Jewellers (AP High Court) ITTA No.274 of 2013
- ii. ACIT Vs. Thatavarthi Ramesh Babu, ITA No.28/Viz/2015
- iii. ITO Vs. Kondula Suryaprakasa Rao, ITA No.271/Viz/2012
- iv. CIT Vs. Arrow Exim Pvt. Ltd. (2010) 230 CTR 0293 (Gujarat HC)
- v. CIT Vs. Laxmi Engg. Industries (2009) 308 ITR 0279 (Rajasthan HC)
- vi. CIT Vs. Khan & Sirohi Steel Rolling Mills (2006) 200 CTR 0595 (Allahabad HC)
- vii. CIT Vs. N.Swamy (2000) 241 ITR 0363 (Madras HC)
- viii. CIT Vs. Prem Singh & Co. (1987) 163 ITR 0434 (Delhi HC)

- ix. CIT Vs. Apcom Computers Pvt. Ltd. (21007) 292 ITR 0630  
(Madras HC)

6.3. In the instant case, there is no dispute that the value of the stock declared in the books of accounts is as per the purchase bills and correctly reported. There was no difference in physical stocks declared to the bank and accounted in the books of accounts. The value of closing stock declared in the books of accounts was duly supported by the purchase bills. We also observe that the sundry debtors were also correctly reported and grouped in the books of accounts and no other evidence was brought on record by the department to controvert the above findings. The department did not make out a case of unaccounted stock or the suppression of trade debtors. The facts of the assessee's case are similar to the decision of Hon'ble High Court of Andhra Pradesh and the decision of this Tribunal in the case of Thatavarthi Ramesh Babu. Therefore, respectfully following the view taken by Hon'ble High Court and the ITAT, we hold that there is no reason for making the addition on stock difference or understatement of sundry debtors, hence, we set aside the order of the Ld.CIT(A) and delete the addition made by the AO.

**S.A.No.57/Viz/2019**

7. The assessee also filed the stay application. Since the main appeal is taken up for adjudication, the Ld.AR did not press the stay application. Hence, stay application filed by the assessee is dismissed as withdrawn.

8. In the result, appeal of the assessee is allowed and the stay application is dismissed.

Order pronounced in the open court on 25<sup>th</sup> September, 2019.

Sd/-

(वी.दुर्गा राव)

**(V. DURGA RAO)**

**न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य/ACCOUNTANT MEMBER**

विशाखापटणम /Visakhapatnam

दिनांक /Dated : 25.09.2019

L.Rama, SPS

Sd/-

(डि.एस. सुन्दर सिंह)

**(D.S. SUNDER SINGH)**

*S.A. No.57/Viz/2019 and I.T.A.112/Viz/2019, A.Y.2014-15*  
*Balaji Steel Traders, Ongole*

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Balaji Steel Traders, D.No.8-411-1/1, Near Anjaneyaswamy Temple, South Bye Pass Road, Ongole, Prakasam
2. राजस्व/The Revenue -Income Tax Officer, Ward-5(4), Visakhapatnam
3. The Pr.Commissioner of Income Tax-2, Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-9, Hyderabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्ड फ़ाईल / Guard file

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आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam