

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'A' BENCH : Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member  
And  
Shri Mohan Alankamony, Accountant Member**

**ITA No. 2141/Hyd./2018  
Assessment Year: 2015-16**

Smt. Yeshala Prasuna,  
Secunderabad

vs. ACIT, Circle-15(1),  
Hyderabad

PAN: AKIPP9925D

**(Appellant)**

**(Respondent)**

**For Assessee:** Shri S. Rama Rao, A.R.

**For Revenue:** Shri Sunku Srinivas, D.R.

**Date of Hearing** : 17/09/19

**Date of Pronouncement** : 04/10/19

**ORDER**

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

This is assessee's appeal for A.Y. 2015-16 against order of CIT(A)-7, Hyderabad dated 20.09.2018.

**2.** Brief facts of the case are that the assessee is an individual and is engaged in the business of trading of information technology, electronics, scientific instruments and equipments. She filed her return of income for A.Y. 2015-16 on 1.9.2015 offering the total income of Rs.28,46,890/- to tax. The case was selected for limited scrutiny to verify-

- (i) contractor receipts/fees mismatch;
- (ii) custom duty payment mismatch;
- (iii) sundry creditors; and

(iv) sales turnover mismatch.

The A.O. observed that during the year under consideration, the assessee had made trade purchases from M/s. Himalaya Services but had not made any payment to the said concern. He also noticed that the assessee made similar purchases from M/s Raychem Technologies, Prop. Smt. Pendem Rajeswari for Rs.25,98,750/- but no payment has been made so far. When enquired, the assessee's husband submitted that the assessee had purchased the goods from both the parties, but since they were found to be defective, the assessee has not made payment for such purchases and payment remained with the assessee. However, the AO was not convinced and held that these are bogus purchases and that the parties being shown as sundry creditors is also bogus. Therefore, he treated total amount as bogus sundry creditors for the A.Y. 2015-16 and brought it to tax.

**3.** Aggrieved assessee preferred appeal before the CIT(A) who confirmed the order of AO. Assessee is in second appeal before us by raising following grounds of appeal.

*“1. The order of ld.CIT(A) is erroneous both on facts and in law.*

*2. The ld.CIT(A) erred in confirming addition of Rs.99,09,322/-.*

*3. The ld.CIT(A) erred in holding that the said amount represents inflation in purchases and whereas the AO treated the said amount as bogus sundry credit.*

*4. The ld.CIT(A) ought to have considered the fact that the purchases are genuine and payments were made genuinely and that, therefore, even sundry creditors are genuine.*

**4.** The Ld.Counsel for assessee, while reiterating submissions made before the authorities below, submitted that the assessee had purchased goods from

M/s Himalayan Services and also M/s Raychem Technologies and has produced purchase invoices from both the parties before the AO as well as CIT(A). He admitted that the payment was not made against these purchases because they were found to be defective and were not used for assessee's business. He also admitted that goods still remained with assessee and the said parties have also accepted that goods were defective. He submitted that if at all these amounts are to be brought to tax, they can only be brought to tax u/s 41(1) of the Act but they cannot be treated as bogus sundry creditors. It has to be treated as income of the assessee towards cessation of liability in the year in which it has been written-off by other parties.

**5.** The Ld.DR on the other hand, relied on the order of authorities below and submitted that the assessee has not been able to prove that it had made purchases from these parties.

**6.** Having regard to the rival contentions and material placed on record, we find that the invoices of M/s.Himalaya Services and M/s.Raychem Technologies Ltd. are produced before us at pages 19 to 21 of the paper book. We also find that during the course of assessment proceedings, the statements of the proprietors of M/s.Himalaya Services and also M/s. Raychem Technologies have been recorded wherein they have confirmed that the goods were sold but due to some manufacturing defects, they were rejected by the assessee and no payment has been made for the same. They also admitted that they have not shown it as receivables and has not received any income on the same. The fact that these two companies have supplied material to the assessee and that they have been found with manufacturing defects, has not been proven to be false but only for the reason that the assessee has not made payments to vendors and also that they have not recorded the said transaction in their books of accounts, the AO has held the purchases as bogus and the creditors as bogus sundry creditors. Though, we agree with the assessee that these parties could not have been treated as

bogus, the fact that the goods were found to be defective during the relevant year itself and for that reason alone the vendors also have not shown the amount as receivable from the assessee proves that the liability also got ceased during the relevant financial year itself. Therefore, it has to be treated as the income of the assessee during the relevant assessment year itself not as bogus creditors, but as cessation of liability. AO is directed to recompute the income accordingly.

**In the result, the appeal of the assessee is dismissed.**

Order pronounced in Open Court on 4<sup>th</sup> October, 2019.

Sd/-

**(MOHAN ALANKAMONY)**  
**ACCOUNTANT MEMBER**

Sd/-

**(P MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Dated: 4<sup>th</sup> October, 2019.

*\*GMV/TNMM*

Copy forwarded to:

1. Smt.Yeshala Prasuna, 12-5-35/A/9/51, Ballad Estates, Tarnaka, Secunderabad.
2. The Asst. Commissioner of Income Tax, Circle-15(1), Hyderabad.
3. CIT(Appeals)-7, Hyderabad.
4. Pr.CIT-7, Hyderabad.
5. D.R. ITAT Hyderabad
6. Guard File

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