

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

**BEFORE SH. BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SH. R. K. PANDA, ACCOUNTANT MEMBER**

ITA No.614/Del/2015

Assessment Year: 2010-11

M/s. U. P. Dyeing & Printing Works, 154, Subhash Bazar, Meerut PAN No.AAAFU2202L	Vs.	Income Tax Officer Ward- 2 (4) Meerut
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

ITA No.638/Del/2015

Assessment Year: 2010-11

Income Tax Officer Ward- 2 (4) Meerut	Vs.	M/s. U. P. Dyeing & Printing Works, 154, Subhash Bazar, Meerut
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Sanjay Malik, CA Sh. Sankalp Malik, CA
Respondent by	Smt. Naina Soin Kapil, Sr. DR.

Date of hearing:	01/08/2019
Date of Pronouncement:	09/10/2019

**ORDER**

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

These are cross appeals. The first one is filed by the assessee and the second one filed by the revenue and are directed against the order dated 28.11.2014 of the CIT(A), Meerut relating to A.Y.2010-11. For the sake of convenience these were heard together and are being disposed of by this common order.

**ITA No. 614/Del/2015 ( by assessee)**

2. There is a delay of two days in filing of this appeal by the assessee for which assessee has filed a condonation petition alongwith an affidavit explaining the reasons for delay. After hearing both the sides and considering the contents of the condonation application filed alongwith affidavit, the delay is condoned.

3. The grounds raised by the assessee are as under :-

1. *That on facts and in law and in the circumstances of the case, the difference between the balances as per the accounts of various trade creditors and the balances reflected in the books of account of the assessee having been fully substantiated there was no legal basis to treat such difference as income chargeable to tax.*

2. *The Authorities below on facts and in law and the grounds taken and basis adopted went wrong to treat Rs.44,9317/- as income. The addition deserves to be deleted being void, illegal and without jurisdiction.*

4. Facts of the case, in brief, are that the assessee is a partnership firm engaged in the business of manufacture of printed handloom / power loom cloth and cloth printing. It filed its return of income on 15.10.2010 declaring total income of Rs.56,360/-. During the course of assessment proceedings the AO noted that assessee has shown sundry creditors to the tune of Rs.1,22,75,695/-. On the basis of details furnished by the assessee the AO issued letters u/s. 133 (6) to certain creditors. From the confirmations received from some of the creditors he

noted difference in the case of the following creditors :-

<u>Name</u>	<u>Difference Amount</u>
Amit Textile	Rs.1,33,784/-
Kunal tech Fab India	Rs.10428/-
New India Colour	Rs.2000/-
Vishal Dyeing Chemical	Rs.7008/-
M/s. Maya International Pvt. Ltd.	Rs.35034/-
S. R. Textile	Rs.261063/-

5. He, therefore, asked the assessee to explain the difference and asked him to explain as to why it should not be added to the total income of the assessee. In absence of any reply from the side of the assessee, the AO made addition of Rs.4,49,317/-.

6. In appeal the Ld. CIT(A) confirmed the addition on the ground that AO by his own enquiry had brought in positive evidence and the assessee failed to offer any explanation before the AO. Therefore, he rejected the explanation given by the assessee before him and sustained the addition of Rs.4,49,317/- made by the AO.

7. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

8. The Ld. Counsel for the assessee strongly challenged the order of the CIT(A) in confirming the addition of Rs.4,49,317/-. He submitted that it is a case where sundry creditors shown by the assessee is less than the figures given by the respective parties. Further the assessee has paid back amount to the sundry creditors in the subsequent years. He submitted that

the AO has not disallowed any purchases and has accepted the trading account, therefore, no addition should have been made. The Ld. Counsel for the assessee filed the following details to substantiate the item wise difference in the case of the creditors.

*“The Ld. CIT (A) in para no. 4.2 of his order simply stated that reconciliation statement cannot be considered at this stage. However the facts is reconciliation statement was filed before the AO as well as CIT (A). An index was also filed before the Ld. CIT (A) which has been overlooked. Referred to page no. 110 & 111 of the paper book.*

*Page no. 1 of the paper book shows the balance of trade creditors in the books of the assessee and balance with the suppliers in their books and the difference, it is seen that the difference is credit difference. (i.e. the balance payable is less) Reconciliation statement was filed at page no.2 and 3 of the index paper book. The same was filed before Ld. CIT (A) also and not considered by him.*

*In case of New Indian Color Company, the confirmation was filed at page no.7 and the difference was only because of opening balance of Rs.1671.81. thus Ld. CIT (A) was wrong on facts on disallowing the same. A chart was also filed which shows balance, bills and payment made by the firm, which was furnished at page no. 39 of the paper book. (Refer Page No. 37)*

*In case of SR Textiles, the confirmation was filed at page no. 12 and the difference was only because of bill was entered later as goods were inspected and purchase was done in subsequent date when the goods was approved and bill was settled, thus Ld. CIT (A) was wrong on facts on disallowing the*

*same. A chart was also filed which shows balance, bills and payment made by the firm, which was furnished at page no. 39 of the paper book. (Refer Page No. 39)*

*In case of Amit Textiles, the confirmation was filed at page no. 19 and the difference was only because of goods received in the opening date of next year was duly entered in purchases by the assessee., thus Ld. CIT (A) was wrong on facts on disallowing the same. A chart was also filed which shows bills and payment made by the firm, which was furnished at page no. 39 of the paper book. (Refer Page No. 39).*

*In case of Kunal Tex Fab, the confirmation was filed at page no.21 and the difference was only because of cheques debited in subsequent financial year, thus Ld. CIT(A) was wrong on facts on disallowing the same. A chart was also filed which shows balance, bills and payment made by the firm, which was furnished at para No.39 of the paper book. (Refer Page No.31).*

*In case of Vishai Dyes & Chemicals, the confirmation was filed at page no. 32 and the difference was only because of balance of petty expenses debited to the tune of Rs. 200 and bill issued on 31<sup>st</sup> March, which was received in next financial year. There was an opening balance of Rs. 9308/- and the same was duly reconciled, however Ld. CIT (A) was wrong on facts on disallowing the same. A chart was also filed which shows balance, bills and payment made by the firm, which furnished at page no. 40 of the paper book. (Refer Page No. 32)*

*In case of Maya International, copy of account was filed at page no. 33 & 34, the difference was only because of two bills in one there is a difference of Rs.2545/- and in second bill, it*

*was entered later as goods were inspected and purchase was done in subsequent date when the goods was approved and bill was settled, thus Ld. CIT (A) was wrong on facts on disallowing the same. A chart was also filed which shows balance, bills and payment made by the firm, which was furnished at page no. 41 of the paper book.*

9. Relying on various decisions he submitted that the addition made by the Assessing Officer and the CIT(A) should be deleted.

10. The Ld. DR on the other hand heavily relied on the order of the AO and the CIT(A).

11. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the AO in the instant case made addition of Rs.4,49,317/- to the total income of the assessee on the ground that there is difference between the balance shown by the assessee and the confirmation received in the case of six parties the details of which is given at para 4 of this order. It is the submission of the Ld. Counsel for the assessee that the figures shown by the assessee is less as compared to the figures in the confirmation given by the sundry creditors. Further the assessee has reconciled the difference in giving reasons and, therefore, there is no need to make the addition. We find sufficient force in the above argument of the Ld. Counsel for the assessee. A perusal of the details filed in the paper book shows that the assessee

has filed the following details before the AO as certified in the paper book.

Summary of Difference in Balance of Sundry Creditors

S.No.	Name of Suppliers	Balance as per Suppliers	Balance as per U.P Dyeing	Diff.	U.P Dyeing	
1	New India Colour Company	476,282.81	474,611.00	1,671.81	Diff. in Opening Balance	Cr.
2	S.R Textiles	428,130.00	167,067.00	261,063.00	Some bills taken in next F.Y on 17.05.2010	Cr.
3	Amit Textiles	1,009,654.00	875,870.00	133,784.00	Bill No. 217 dt. 27.03.2010 taken in next F.Y on 01.04.2010	Cr.
4	Kunal Tex Fab	75,651.00	65,222.00	10,429.00	Cheque payment not taken by Kunal Tex Fab UP Dyeing shown on 29.04.2009	Cr.
5	Vishal Dyes & Chemicals	741,919.00	748,927.00	(-) 7,008.00	Diff. in Opening Balance Rs. 93087- balance excess entered by Vishal Dyes & Rs. 2300/- entered by Vishal Dyes on 01.04.2010	Dr.
6		1,062,011.00	1,026,991.00	35,020.00	Rs. 2545/- Bill Diff. & Rs. 32475/- bill taken in next F.Y on 15.05.2010	Cr.
	Maya International Total	3,793,647.81	3,358,688.00	448,975.81	The A.O added all the six Items	
	Actual Difference	434,959.81				

Note: It is a case where liability payable is less than the creditors claiming with, Hence No addition shall be made on this score

12. We find the various details furnished by the assessee before the CIT(A) were summarily rejected by him on the ground that the assessee has not furnished any explanation before the AO. In our opinion the assessee in the instant case has fully discharged the onus cast on him by giving sufficient reasons before the AO and CIT(A) regarding the discrepancies in the accounts. Further it is

a case where the liability payable is less than the balance shown by the creditors in 5 out of the 6 cases. Further the AO has not disputed the purchases from the said parties and has accepted the trading results. Considering the totality of the facts of the present case and considering the submission made by the Ld. Counsel for the assessee before the AO and the CIT(A), we are of the considered opinion that the CIT(A) was not justified in sustaining the addition of Rs.4,49,317/- on account of difference in the accounts of the creditors. We, therefore, set aside the order of the CIT(A) and direct the AO to delete the addition.

13. The appeal filed by the assessee is accordingly allowed.

**ITA No.638/Del/2015 ( by revenue)**

14. The grounds of the revenue is as under :-

1. *Whether in the facts and circumstances of the case, the Ld. CIT(A) was correct in law and facts in not remanding the matter for proper and complete verification of sundry creditors worth Rs. 72,71,723/- which were unconfirmed balances.*
2. *Whether in the facts and circumstances of the case, the Ld. CIT(A) was correct in law and facts in accepting the version of the assessee regarding unconfirmed balances of sundry creditors worth Rs. 72,71,723/- without proper verification.*
3. *That the appellant craves leave to add, modify and / or delete any ground(s) of appeal.*
4. *In the facts and circumstances of the case, the order of the CIT(A), Meerut may be set aside and that of the A.O. restored.*

15. After hearing both the sides, we find the tax effect involved in the grounds raised by the Revenue is admittedly below Rs.50 lakhs. Therefore, in view of the CBDT Circular No.17/2019 dated 8<sup>th</sup> August, 2019 raising the monetary limits for filing of the

appeals by the Revenue before the Tribunal to Rs.50 lakhs and the subsequent clarification dated 20<sup>th</sup> August, 2019 to the effect that the said Circular is applicable even to pending appeals, the appeal filed by the Revenue is not maintainable. Accordingly, the same is dismissed.

16. In the result, the appeal filed by the Revenue is dismissed and the appeal filed by the assessee is allowed.

Order pronounced in the open court on 09.10.2019.

Sd/-  
**(BHAVNESH SAINI)**  
**JUDICIAL MEMBER**

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

\*Neha\*

Date:- 09.10.2019

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	09.10.2019
Date on which the file goes to the Bench Clerk	09.10.2019
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	