

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

**BEFORE: SHRI LALIET KUMAR, JUDICIAL MEMBER, AND
DR. M. L. MEENA, ACCOUNTANT MEMBER**

**I.T.A No. 412 & 437/Agra/2018
C.O. 64 I.T.A No. 412/Agra/2018
(ASSESSMENT YEAR: 2012-13)**

M/s Chitavalsah Jute Mills Ltd. B-623, Kamla Nagar, Agra. PAN: AACCC6834D (Appellant)	Vs.	ACIT, Circle 2(1)(1), Agra. (Respondent)
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**I.T.A No. 471/Agra/2018
(ASSESSMENT YEAR: 2012-13)**

DCIT, Circle 2(1)(1), Agra. (Appellant)	Vs.	M/s Chitavalsah Jute Mills Ltd. B-623, Kamla Nagar, Agra. PAN: AACCC6834D (Respondent)
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Appellant by	Shri Gaurav Agrawal, CA
Respondent by	Shri Waseem Arshad, Sr. DR & Sh. Sunil Bajpai, CIT. DR.

Date of Hearing	06.11.2019
Date of Pronouncement	15.11.2019

ORDER

Per Dr. M.L. Meena, A.M.:

These are assessee's appeals and the revenue's cross-appeal and Cross-objection for Assessment Years 2012-13 respectively, for the sake of

convenience we taken up ITA No. 412/Agra/2018, for A.Y. 2012-13, wherein the assessee has taken the following grounds:

- “1. Because the learned CIT(A) order was partly bad in law as per the facts of the case.*
- 2. Because the learned CIT(A) sustained addition of Rs. 49,72,098 out of sundry creditors ignoring the fact that books of accounts were audited and creditors belonged to current year expenses.*
- 3. Because the learned CIT(A) sustained addition of Rs. 99,69,661 being disallowance of interest expenses ignoring the fact that books of accounts were audited and ignoring the break up of interest expense.*
- 4. Because the learned CIT(A) sustained addition of Rs. 12,76,916 being disallowance of other expenses ignoring the fact that books of accounts were audited and ignoring the break up of other expenses.*
- 5. That the appellant assessee craves for a leave to add, after and amend any grounds of appeal at the time appellate hearing.”*

2. Since, common issues involve in the cross appeal and the C.O. of the revenue, therefore, all these appeals have been heard together and decided by this consolidated order for the sake of convenience of the parties and brevity. After hearing both the sides, perusing the material on record, assessee’s paper book these appeals are decided as follows:

3. At the outset, the counsel for the assessee submitted that additions sustained by Id. CIT(A) on account of sundry creditors during the current year

amounting to Rs.49,72,098/- which includes the amounts which are already disallowed as part of expenses in computation of income as follows:

- i. Rs.18,67,872/- is disallowed out of other expenses of Rs. 43,71,996/- (Schedule-15 of balance sheet, APB- page 20).
- ii. Rs.8,65,113/- is disallowed out of Employment cost of Rs.9,77,440/- (Schedule-16 of balance sheet, APB, page no. 21).

Thus, he argued that since amount of Rs.26,16,451/- is already disallowed in the computation of income, the question of again disallowing it as part of current year sundry creditors does not arise.

4. In the next ground 3 and 4 the assessee's grievance is that interest amount of Rs.99,69,661/- and other expenses of Rs.12,76,914/- has been sustained by the Id. CIT(A) without appreciating facts of the case and ignoring the fact that the books of accounts were audited and detailed breakup expenses has been submitted. He prayed that the matter in quantum and penalty appeal may be restored to the Id. CIT(A) to be decided afresh after considering the paper book filed by the assessee on record and during the course of fresh appellate proceedings before the Id CIT(A) with an opportunity of hearing in the matter.

5. The Id. DR has no objection in restoring back the issue to the CIT(A) subject to the contention that the matter is to be reheard by the Id. CIT(A) afresh on all the issues involved in the grounds of appeal challenged by the revenue and assessee.

6. Considering the factual matrix of the case that an amount of Rs.26 lac as being disallowed twice in the computation of income and on disallowance by the AO, confirmed by the Id. CIT(A) on account of sundry creditors against other expenses debited by the assessee which amounts to double taxation and needs to be examined carefully in view of the documentary evidences filed by the assessee in the paper book placed on record. Likewise, the revenue has the

grievance that the Id. CIT(A) has erred in law by restricting the penalty at 100% on tax sought to be evaded on an amount of income of Rs.1,62,18,672/- as against income of Rs.5,08,21,269/- by the AO without appreciating the fact that the assessee failed to furnish any evidence regarding genuineness of creditors either before the AO or the CIT(A). In view of the matter, we deem it fit to restore all these appeals in ITA No.412, 437,471 to the Id. CIT(A) with the direction to decide afresh to address the objections of both the parties considering the submissions and the evidences filed and to be filed in the fresh proceedings before the Id. CIT(A). He shall grant due opportunity of being heard to both the sides. No doubt, assessee shall co-operate in the fresh proceedings before the CIT(A). All pleas available under the law shall remain so available to the assessee. Since, the quantum appeal is restored to the Id. CIT(A), the C.O.64/Agr/2019 (in ITA No and & C.O.64/Agr/2019 (in ITA No 412/Agra/2018) get merged with the finding and quantum appeal and becomes infructuous.

7. In the result, all appeals are allowed for statistical purposes and cross-objection is dismissed as infructuous.

Order pronounced in the open court on 15/11/2019.

Sd/-
(Laliet Kumar)
JUDICIAL MEMBER

Sd/-
(Dr. M.L. Meena)
ACCOUNTANT MEMBER

*AKV*Copy forwarded to:

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

Sr. PRIVATE SECRETARY

**I.T.A No. 412 & 437/Agra/2018
C.O. 64 I.T.A No. 412/Agra/2018
(ASSESSMENT YEAR: 2012-13)**

ITAT, AGRA