

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER, AND
SHRI N.K. BILLAIYA ACCOUNTANT MEMBER

ITA No. 2621/DEL/2017
[A.Y. 2012-13]

Anil Knitting Industries
M-118, Shastri Nagar
New Delhi

Vs.

The A.C.I.T
Ward - 35(3)
New Delhi

PAN : AAHFA 4960 G

[Appellant]

[Respondent]

Date of Hearing : 03.03.2020

Date of Pronouncement : 04.03.2020

Assessee by : None

Revenue by : Shri Sanjay Goel, CIT-DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the CIT(A) - 12, New Delhi dated 27.02.2017 pertaining to A.Y 2012-13.

2. The grievance of the assessee is two-fold - firstly, the assessee is aggrieved by the addition of Rs. 4,89,081/- out of Rs. 6,80,696/- and secondly, the grievance relates to addition of Rs. 11,10,334/- out of sundry creditors of Rs. 12,15,959/-.

3. None appeared on behalf of the assessee in spite of notice issued nor there in any application for adjournment. Therefore, we decided to proceed exparte.

4. Having heard the ld. DR, who placed strong reliance on the order of the ld. CIT(A), we have carefully perused the orders of the authorities below.

5. Facts on record show that during the course of scrutiny assessment proceedings, the Assessing Officer issued notice u/s 133(6) of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] to sundry creditors. We find that the assessee could not provide suitable explanation with respect to differences in the cases of 15 parties. The Assessing Officer, accordingly, disallowed Rs. 12,15,959/- on account of sundry creditors and Rs. 6,80,696/- on account of sundry debtors for want of reconciliation.

6. When the matter was agitated before the ld. CIT(A), certain details were furnished and the ld. CIT(A) called for remand report.

7. After considering the remand report, the Id. CIT(A) held as under:

“10.16 During remand proceedings, Assessing Officer has issued notices u/s 133(6) to all the 15 creditors to submit the copy of ledger account of Assessee in their books of account including copy of bills / invoices etc., nature of transactions alongwith mode, PAN with ITR and outstanding amount payable. Assessing Officer has stated that out of 15 creditors, in 7 cases, notice u/s 133(6) were received back unserved and out of the rest only M/s Sony Kit Fab and M/s Katt Special Machine Pvt. Ltd. submitted their reply. Assessing Officer has also submitted that notices u/s 133(6) were issued to all the debtors and reply has been received from 6 debtors out of 9. Appellant has claimed that trade creditors and debtors have submitted their confirmed copy of account to Assessing Officer

10.17 I have carefully considered the observations of the Assessing Officer and submissions of the Appellant. It is seen that sufficient opportunities have been provided to the Appellant. Now Appellant claims that confirmation might have been received by Assessing Officer after the forwarding the remand report. Appellant's application was forwarded to Assessing Officer vide this office letter dated 09.09.2016 and Assessing Officer has issued the notices u/s 133(6) on 23.09.2016 and she has submitted her reply on 18.11.2016.

Therefore, there was almost time of two months during which no further compliance was made by concerned parties. Appellant in his reply has only made only hypothetical claim. If that was the case and he was sure, he could have obtained the copies of replies submitted by the sundry debtors and creditors and enclosed alongwith his reply in rejoinder to the remand report. Therefore, there is no basis in the claim of Appellant.

10.18 With respect to disallowance on account of sundry creditors, Assessing Officer has stated that in the case of M/s Sony Knit Fab, outstanding amount as on 31.03.2012 was Rs.91,181/- whereas the amount as per Assessee is Rs.91,062/-. Similarly, it has been submitted that in the case of M/s Katt Special Machines Pvt. Ltd., total outstanding amount as on 31.03.2012 was Rs. 14,650/- whereas the amount as per Assessee is Rs. 14,563/-. I have examined the ledger account and it is seen that the difference is almost reconciled in both the cases. Therefore, disallowance of Rs.91,062/- and Rs. 14,563/- in the case of M/s Sony Knit Fab and M/s Katt Special Machines Pvt. Ltd. is deleted. With respect to the rest of the cases namely M/s Master Hosiery, M/s Atharva Fabric, M/s ECS Corporation, M/s Gecon Knits, M/s JK Industries, M/s Rajasthan Central Store, M/s Neha Process House, M/s Pooja Cargo, M/s Prabhat Hosiery, M/s Rajasthan International, M/s Ram Shri International, M/s Sunil Hosiery Factory, Shri Durlab Sharma, it is seen that no replies were submitted and in 7 cases, notices

u/s 133(6) were received back. Therefore, though Appellant has been given opportunity, no reconciliation could be done. Appellant has also not filed any reconciliation statement in rejoinder to the remand report with respect to the rest of the 13 parties. As such, onus cast on the Appellant is not discharged. Therefore, disallowance of Rs. 1,10,334/- is sustained.

10.119 With respect to the difference in the account of sundry debtors, it is seen that 6 parties out of the 9 parties have submitted their replies. In the case of M/s Fashion Next, Assessing Officer has issued notice u/s 133(6) to confirm the outstanding amount and submit the copy of debit note. However, M/s Fashion Next has not submitted any copy of debit note. Assessing Officer has also stated that there is no posting of debit note in their ledger account. Therefore, it is clear that as against the amount of Rs. 14,60,365/-, the outstanding amount as per the ledger account of Appellant in the books of M/s Fashion Next was Rs. 13,64,788/-. Similarly, in the case of M/s Goddess Exports Pvt. Ltd., there is debit balance of Rs. 6,15,466/- in the books of M/s Goddess Exports Pvt. Ltd. as against Rs. 5,15,466/- declared by the Appellant. Assessing Officer has further stated that M/s Creations was issued notice u/s 133(6) to submit the copy of debit note issued, however, it was not submitted. It is seen that Appellant's claims that debit note was issued has not been established as neither M/s Creations has submitted the debit note neither there is no

posting of debit note in their ledger account and the amount of debit balance is Nil in the ledger account of the party. As such, there is no basis in the claim of Appellant. In the case of M/s Leela Niryat, it is seen that the difference was due to the debit note of Rs. 14,030/- issued by customer. Therefore, difference of Rs. 14,030/- is reconciled in the case of M/s Leela Niryat. In the case of M/s Tradition & Modernity, Assessing Officer has stated that as per the ledger of M/s Tradition & Modernity, there is debit balance of Rs.1,97,197/- and M/s Tradition & Modernity has issued debits of Rs.840/- and Rs.2,500/- and payment of Rs.26,129/- and Rs.1,305/- were made on 15.02.2012 and 17.03.2012 respectively and not on 28.04.2012 and 30.04.2012. Therefore, it is apparent that Appellant has not reconciled the difference as the amount of Rs. 1,97,197/- is after taking into account the debit notes issued and not as claimed by Appellant. Assessing Officer has further submitted that balance of M/s Jaydee Export was taken instead of M/s Jung Garments. Therefore, disallowance on account of M/s Jung Garments is deleted. With respect to M/s Aman Exports, Assessing Officer has stated in the remand report that as per the account submitted by M/s Aman Exports, debit note of Rs.729/- was issued on 23.03.2012 and cheque of Rs.53,028/- was issued on 31.03.2012. I have examined the claim of Appellant and it is clear that debit note of Rs.729/- and cheque of Rs.53,028/- was issued and, therefore, difference in the case of M/s Aman Exports is reconciled. As a result, disallowance in the case of M/s Aman Exports (Rs.53,757/-), M/s Leela Niryat (Rs.

14,0^8/-) and M/s Jung Garments (Rs. 1,23,820/-) is reconciled and, therefore, disallowance of Rs. 1,91,615/- is deleted. In the case of M/s Fashion Next, M/s Goddess Export Pvt. Ltd., M/s Creations, M/s Tradition & Modernity, the difference has not been reconciled. Further, in the case of M/s Alka Creations, M/s Design & Design and M/s Overseas, no reply has been received. Therefore, in view of the facts and circumstances of the case, disallowance of Rs.4,89,081/- is sustained"

8. We have given thoughtful consideration to the aforesaid findings of the ld. CIT(A). We do not find any error or infirmity in the findings of the ld. CIT(A), therefore, we decline to interfere.

9. In the result, the appeal of the assessee in ITA No. 2621/DEL/2017 is dismissed.

The order is pronounced in the open court on 04.03.2020.

Sd/-

**[H.S. SIDHU]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 04th March, 2020.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
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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	
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