

आयकर अपीलार्थ अधीकरण, राजकोट ँयायपीठ, राजकोट ।
**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
And
Ms MADHUMITA ROY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No.230/Rjt/2018
With
C.O. No.23/Rjt/2018
(अधकरण वर्ष / Assessment Year :2014-15)

I.T.O, Ward-1, Morbi.	बनाम/ Vs.	M/s.Dev Cotton and Oil Industries, Saraya, A/p Latipar, Tal. Tankara, Morbi,
अथयी लेखा सं./जीआइआर सं./PAN/GIR No. : AAHFD7010L		
(अपीलाथ / Appellant)	..	(अयथ / Respondent)

अपीलाथ ओर से / Appellant by :	Shri Sanjay Kumar Sr. D.R
अयथका ओर से / Respondent by :	Shri Vimal Desai, A.R

सुनवाई का ताराख / Date of Hearing	25/02/2020
घोषणा का ताराख / Date of Pronouncement	28/02/2020

आदेश / ORDER

PER BENCH:

The captioned appeals have been filed at the instance of the Revenue and C.O filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals)-3, Rajkot [Ld. CIT(A) in short] dated 20/03/2018, arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") dated 26/12/2016 relevant to Assessment Year (A.Y) 2014-15. Assessee has filed C.O bearing No.23/Rjt/2018 in ITA No.230/Rjt/2018 for A.Y. 2014-15.

The Revenue has raised the following grounds of appeal:

- 1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the addition of Rs. 2,76,35,087/- made on account of difference in the stock reported in the books and the stock details submitted to the bank to avail credit facility.*
- 2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in reducing the addition of Rs. 9,90,299/- to Rs. 3,31,460/- made on account of difference in the amount of Sundry Debtors as shown in the books and as furnished before the bank and thus allowing a relief of Rs. 6,58,839/- on this count.*
- 3. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the decision of the hon'ble Bombay High Court in the case of Ramanlal Kacharalal Tejmal v. CIT [1984] 146 ITR 368 (Bom) wherein the Hon'ble High Court has upheld the addition made on the basis of information received from the bank regarding stock placed with it which was more in quantity than what was reflected in the income-tax return.*
- 4. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not appreciating the decision of Hon'ble ITAT Kolkata bench 'SMC' in case of Es tee Exports (P.) Ltd. v. Income-tax Officer wherein it was held that where there was a difference between stock as per statement filed before bank and in books of account of assessee and assessee despite being given more than sufficient opportunity had not been able to explain discrepancy, addition made by Assessing Officer was justified.*
- 5. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 6. It is, therefore, prayed that the order of the CIT(A) be set aside and that of the AO be restored to the above extent.*
- 7. Any other ground that the Revenue may raise before or during the proceedings before the Hon'ble ITAT.*

2. The 1st issue raised by the Revenue is that the learned CIT (A) erred in deleting the addition made by the AO for Rs. 2,76,35,087/- on account of difference

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between the value of closing stock shown by the assessee in the books vis-à-vis filed with the bank to avail the credit facility.

3. Briefly stated facts are that the assessee in the present case is a partnership firm and engaged in the business of manufacturing and trading of cotton, cotton bales and cotton seeds. The Assessing Officer during the assessment proceedings observed the difference in the quantity/value of the closing stock shown by the assessee in the books of accounts vis-à-vis submitted to the bank to avail the cash credit facility amounting to Rs. 2,76,35,084/- only. On question by the Assessing Officer the assessee claim to have filed the position of stock on estimated basis therefore the same cannot be relied upon.

3.1 However, the Assessing Officer disregarded with the contention of the assessee and treated the impugned amount of difference Rs. 2,76,35,084/- as income and added the same to the total income of the assessee.

Aggrieved assessee preferred an appeal to the learned CIT(A).

4. The assessee before the learned CIT(A) submitted that he has declared higher quantity/value of the stock as on 31/03/2014 in order to avail the higher credit facility. The assessee further claimed that the stock shown in the Audited Accounts is correct as the same matches with the VAT returns and VAT Audit Report.

4.1 The learned CIT(A) after considering the submission of the assessee observed that the stock has not been pledged with the bank but it is hypothecated in order to avail the credit facility. There is no information available on record with the bank whether the same was examined. The learned CIT(A) also noted that the books of accounts of the assessee were subject to VAT returns and Audit but there was no defect of whatsoever pointed out by the Assessing Officer. Accordingly the learned

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CIT(A) deleted the addition made by the Assessing Officer by holding that it was merely on the basis of stock details furnished to the bank

Being aggrieved by the order of the learned CIT(A) the Revenue is in appeal before us

5. The Ld. DR vehemently supported the order of the Assessing Officer.

6. On the other hand, the Ld. AR before us filed a paper book running from pages 1 to 112 and submitted that there cannot be any addition to the total income of the assessee on account of the difference in quantity/value of the stock between the books of accounts and the details filed with the bank in view of the judgment of Hon'ble Gujarat High Court in the case of CIT vs Riddhi Steel and Tubes Pvt. Ltd. reported in 40 taxmann.com 177. The AR vehemently supported the order of the Id. CIT-A.

7. We have heard the rival contentions of both the parties and perused the relevant materials available on record. In the present case addition was made by the Assessing Officer on the basis of the difference in the value/quantity of the closing stock as on 31/03/2014 but the same were deleted by the learned CIT(A) on the ground that higher declaration of value/quantity of the closing stock does not amount to income of the assessee.

8. At the outset we note that in the identical facts and circumstances the Hon'ble jurisdictional High Court in the case of Riddhi Steel and Tubes Pvt. Ltd. (Supra) has deleted the addition made by the Assessing Officer by observing as under:

“9.2 It is a settled law, as rightly held by the Tribunal, that only on account of inflated statements furnished to the banking authorities for the purpose of availing of larger credit facilities, no addition can be made if there appears to be a difference between the stock shown in the books of account and the statement furnished to the banking authorities. If, for the purpose of fulfilling the margin requirements of the bank purely on inflated estimate basis, when the stock statement had reflected inflated value of the

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stock, in wake of otherwise satisfactory explanation, both - for the purpose of value as well as quantity, we find no reason to interfere with the order of the Tribunal."

8.1 The fact of the case on hand are identical to the fact of the case as discussed above therefore we hold that there cannot be any addition merely on the basis of the details submitted to the bank for filing the cash credit facility. Hence we do not find any reason in the order of the learned CIT(A). Thus, the ground of appeal of the Revenue is dismissed.

9. The second issue raised by the Revenue is that learned CIT(A) erred in deleting the addition made by the Assessing Officer in part amounting to Rs.3,31,460/- out of the total addition of Rs.9,90,299/- and giving the relief of Rs.6,58,839/- on account of difference in the amount of Sundry Debtors in the books of the assessee and the details filed to the bank.

10. The Assessing Officer during the assessment proceedings observed that assessee has shown Sundry Debtors in its books of accounts at Rs.1,68,48,274/- whereas the figure of Sundry Debtors furnished to the bank stands at Rs.1,78,38,573/-

10.1 The Assessing Officer during the assessment proceedings observed the difference of Rs. 9,90,299/- between the value of Sundry Debtors shown by the assessee and furnished to the bank which was treated as income of the assessee. Accordingly, the Assessing Officer disallowed the difference of Rs. 9,90,299/- and added to the total income of the assessee.

Aggrieved assessee preferred an appeal to the learned CIT(A).

11. The assessee before the learned CIT(A) submitted that the difference is arising on account of several reasons as detailed under:

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- i. There were certain credit notes issued to the customer after the end of the Financial Year but before furnishing the details of the debtors to the bank.
 - ii. There was the interest received on account of late payment from the parties after the deduction of TDS but the same was not furnished to the bank.
 - iii. There were certain parties who have made the payment directly to the assessee which were not entered in the books of accounts
12. However, the Id. CIT-A partly confirmed the addition made by the Assessing Officer by observing as under:

7.1 I have carefully considered the order of the A.O. and written submissions of the appellant. It I observed that the difference of Rs.9,90,299/- was arising in respect of 7 parties. In respect of 6 parties out of these 7, the difference is apparently reconcilable as it is arising from the transaction as on 31 st March i.e. debit note entered on that date or interest charged on that date or ms on such interest. The appellant has explained that these entries were passed after giving statements to the bank and therefore, the difference in books of account and statement given to the bank arose. The appellant has exactly reconciled the difference in respect of 6 parties with reference to the ledger accounts of the parties. The reconciliation of the appellant is apparently verifiable and acceptable. The amount attributable to these 6 parties is Rs.4,69,469/-. Hence, the addition to this extent is directed to be deleted.

7.2 In respect of 7th party namely M/s. Bhadresh Trading Corporation Ltd., it is observed that the appellant has cited several transactions which are not limited only to 31st March. The transactions pertaining to 31 st March, 2014 are of Rs.1,89,370/-. I am inclined to accept the reconciliation of the appellant to this extent on the analogy accepted in respect of 6 parties in preceding para. The addition of Rs.1,89,370/- is therefore directed to be deleted. However, in respect of remaining amount of Rs.3,31,460/-, it is observed that the appellant had cited the transaction which took place much prior to 31st March. The appellant has not come out with any plausible explanations as to why such transaction remained to be taken while furnishing statements to the bank. It is pertinent to note that unlike the issue of stock, it is not the case of the appellant here that inflated figures of debtors were given to the bank. In fact, the reconciliation of debtors made by the appellant clearly show that the appellant furnished figures of debtors as per books of accounts to the bank. I am therefore of the view that the addition of Rs.3,31,460/- requires to be conformed in the absence of satisfactory reconciliation on the part of the appellant. The same is hereby confirmed. This ground of the appellant's is partly allowed.

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13. Being aggrieved by the order of the learned CIT(A), both the Revenue and the Assessee are in appeal before us. The Revenue is in appeal before us against the deletion of the addition made by the Assessing Officer for Rs. 6,58,839/- whereas the assessee in Cross Objection against the confirmation of the addition at Rs. 3,31,460/- only.

14. Both the Ld. DR and Ld. AR before us vehemently supported the order of the authorities below to the extent favorable to them.

15. We have heard the rival contentions of both the parties and perused the materials available on record. The issue in the present case relates to the difference in the value of the Sundry Debtors shown by the assessee in the books of accounts vis a vis shown in the statement furnished to the bank. Admittedly, the value of the Sundry Debtors are arising from the sales to the parties therefore we are of the view that there cannot be any addition to the total income of the assessee without disturbing the amount of sale etc. Even assuming, there is difference in the value of Sundry Debtors shown in the books and declared to the bank but in our considered view such difference *ipso facto* does not represent the income of the assessee. To our mind the difference in the value of Debtors cannot be added to the total income without disturbing the corresponding sales shown by the assessee.

In view of the above we hold that there cannot be any addition on account of difference in the value of Sundry Debtors in the given facts and circumstances. Hence the ground of appeal of the Revenue is dismissed and ground of appeal of the assessee is allowed.

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16. In the results, the appeal of the Revenue is dismissed and Cross Objection filed by the Assessee is allowed,

This Order pronounced in Open Court on 28/02/2020

-Sd-

**(MADHUMITA ROY)
JUDICIAL MEMBER**

-Sd-

**(WASEEM AHMED)
ACCOUNTANT MEMBER**

Rajkot, Dated 28/02/2020
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